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BY

F. P. WALTON, Esq., LL.D., K.C. (Quebec)

Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

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ANNUAL REPORT.

THE accounts for the year 1930 show that steady progress is still maintained in the work of the Society, and the balance at the end of the year has been increased by some £61 over that of last year.

The stringent economy practised in the Crown Colonies is, unfortunately, reflected in the reduced subscriptions received on behalf of the Legislatures of Ceylon (£10 10*s.* to £2 2*s.*) and of the Straits Settlements (£11 11*s.* to £3 3*s.*). This reduction of £16 16*s.* has been offset in some measure by four new Government subscriptions, *viz.* the Prime Minister's Department, South Africa, and a further subscription each from the Governments of the Irish Free State, Tanganyika and Trivandrum. On the other hand, individual subscriptions have increased, thirty-seven new members, drawn from many parts of the world, having been added to the Society's list.

The amount realized on sales of the Journal nearly doubled the sum received for that item in the previous year. In this connexion it may be of interest to note that the University of Western Australia, whose Faculty of Law was only established at the end of 1927, purchased a complete set of the Journal for the Library of the Faculty, as they considered the Journal to be of great value in the teaching of law.

The Committee gratefully acknowledge the valuable assistance which is given to the work of the Society by the donations which the Hon. Societies of Lincoln's Inn, Middle Temple, Inner Temple and Gray's Inn, the Law Society, King's Inns, the Government of Fiji and the Royal Empire Society generously continue to grant.

The Committee records with great regret the loss by death from the Council and Committee during the year under review of the Rt. Hon. Lord Muir Mackenzie, G.C.B., K.C., one of the Founders of the Society, and also, from the Council, the Rt. Hon. the Earl of Birkenhead, and the Hon. W. H. Taft, Chief Justice of the United States.

The Committee extends a cordial welcome to the Hon. Mr. Charles P. Hughes, Chief Justice of the Supreme Court of the United States, Sir Henry Gollan, late Chief Justice of Hong Kong, Sir Walter Shaw, late Chief Justice of the Straits Settlements, the Hon. Sir Littleton E. Groom, Speaker of the Federal House of Representatives, Commonwealth of Australia, and Sir H. W. Malkin, Legal Adviser to H.M. Foreign Office, who, on the invitation of the Committee, have kindly consented to become members of the Council of the Society.

ATKIN, *Chairman.*

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1930. *Cr.*

	£	s.	d.	£	s.	d.
To Subscriptions:						
Government	199	10	0			
Non-Government	463	19	4	663	9	4
,, Grants:						
Law Society	21	0	0			
Lincoln's Inn	21	0	0			
Middle Temple	21	0	0			
Inner Temple	21	0	0			
Gray's Inn	21	0	0			
King's Inns	10	10	0			
Government of Fiji	10	0	0			
Royal Empire Society	5	5	0	130	15	0
,, Sale of *Journals*, including Back Numbers and Reprints	149	9	6			
Less Purchase of Journals and cost of Reprints	16	9	0	133	0	6
,, Proceeds of Advertisements				6	1	6
,, Sale of *Great Jurists of the World*				2	6	5
,, Interest on War Loan				15	10	0
				951	2	9
,, Cash at January 1, 1930:						
In hand	4	8	5			
At bank	185	16	4	190	4	9
,, Proceeds of Advertisements for 1929				8	8	0
,, Subscriptions in arrear received during 1930				21	0	3
,, Subscriptions paid in advance				58	15	2
				£1,229	10	11

	£	s.	d.	£	s.	d.
By Publication of *Journal*:						
Printing vol. xi, pt. 4	135	5	0			
Printing vol. xii, pt. 1	156	18	11			
Printing vol. xii, pt. 2	155	3	4			
Printing vol. xii, pt. 3	132	7	0			
	579	14	3			
Add Paper for *Journal*	35	17	10	615	12	1
,, Salary of Secretary				250	0	0
,, Rent of Chambers	100	0	0			
Less Rent received	40	0	0	60	0	0
,, Lighting, Heating and Cleaning of Chambers				19	16	0
,, General Expenses, including Postage and Insurance				19	4	3
,, Telephone				8	16	6
,, Stationery				1	4	7
,, Audit of Accounts for the year 1929				3	3	0
				977	16	5
,, Cash at December 31, 1930:						
In hand	6	12	0			
At bank	245	2	6	251	14	6
				£1,229	10	11

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £400 5% War Loan 1929/47 Bearer Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
February 28, 1931.

CASH, STONE & CO.
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INTRODUCTION.

[*Contributed by* F. P. WALTON, ESQ., LL.D.]

THE Society gratefully acknowledges the generous help afforded by its learned contributors in all parts of the world. The preparation of these summaries can hardly be anything but a somewhat uninviting task to a busy legal official, and it is upon the services of these that we have mainly to rely.

All that needs to be attempted in the Introduction is to call attention to a few of the laws mentioned in this Review which appear to be of special interest. The laws selected may be classified as follows :

Uniformity of Legislation within the British Empire and Mandated Territories.—As is always the case, we find that British legislation tends to be followed in other parts of the Empire. That this should be so in commercial matters is natural enough, for there uniformity has practical advantages, but in other fields of law as well the British Parliament frequently blazes the trail.

This year the following laws may be noted under this head : Southern Rhodesia alters its law of intestate succession and gives to the surviving spouse of a marriage in which community of goods does not exist the household goods and a sum of £1,000, and, in addition, a life-rent over the whole estate of the deceased if there are no surviving children, and over one-half of the estate if there are such children. These provisions are clearly reminiscent of the Administration of Estates Act, 1925. If community existed between the spouses the surviving spouse is to take the household goods, and if the half-share of the joint estate does not amount to £1,500, then such amount as will bring it up to that sum (p. 115).[1] Northern Rhodesia has a law closely following the Legitimacy Act, 1926 (p. 113). In the Federated Malay States the adultery of the husband is made a sufficient ground of divorce (p. 137).

British Columbia follows our Re-election of Ministers Act of 1919 in removing the requirement that Ministers of the Crown on appointment to office must seek re-election, being the fifth Canadian Province to take this step (p. 37). Northern Ireland has an Adoption Act on the lines of the English Act of 1926, though with some variations (p. 25). In Palestine the work of replacing a good deal of the antiquated Turkish law goes on apace, and there is a series of enactments based for the most part on English legislation on Company Law, Bills of Exchange, Merchandise Marks and Criminal Law and Procedure (pp. 162 *seq.*).

International Law.—In Newfoundland there is a Naturalization Act closely following Imperial legislation (p. 62). Apart from a number of

[1] In Southern Rhodesia there is no community unless otherwise provided by ante-nuptial contract. See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. iii, p. xxix.

International Conventions indexed under that head, there are no other laws in this field which call for comment.

Constitutional Law.—The law of British Columbia as to re-election of Ministers has been mentioned above. There are important amendments to the Constitution of the Irish Free State (p. 30). In Queensland the reduction of salaries of Ministers and members of the Assembly is a sign of the times (p. 72). Northern Ireland has abolished P.R. after a brief trial (p. 21). In Ireland sweeping constitutional experiments seem to have a short shrift. Last year we recorded the abolition in the Free State of the referendum and popular initiative.[1]

Administration of Justice.—The Appellate Jurisdiction Act strengthening the Judicial Committee by authorizing the appointment of two additional members with Indian experience should be noted (p. 3). In South Australia an interesting attempt is made to facilitate the settlement of legal disputes. The courts to which the Act applies have the duty to endeavour to settle disputes coming before them by conciliation where in the opinion of the court there is a reasonable possibility of bringing the parties to agree (p. 80).

Company Law.—In England one of the most important and successful measures of the session is the Companies Act, 1929 (p. 3). It is interesting to note that this Act has been made much use of in the German draft now under consideration.

Delegated Legislation.—Attention is directed to the remarks on this head by Dr. Carr (p. 1). It has long been clear that Parliament could not cope with the mass of detail necessary in many Acts in the field of administrative law. The problem of relieving Parliament and at the same time protecting the public against bureaucratic tyranny will have to be faced, and the sooner the better.

Local Government in England and Scotland.—We refer to the analysis of the new Acts in Dr. Carr's Review (p. 10). He says—and who should know better?—that consolidation of local government law is a crying need (p. 3).

Criminal Law.—There is noteworthy legislation in some of the United States as to punishments for recidivists, and laws which attempt by greater severity to stem the flood of crimes of violence (p. 179). The higher class of criminals call modern science to their aid, and there are special laws as to the employment for criminal ends of armoured cars, of gas or electricity and of wireless telegraphy (p. 180). In England the Infant Life (Preservation) Act stops a gap in the criminal law (p. 14).

Labour Legislation.—Saskatchewan is trying a new principle in workmen's compensation. The new Act introduces the principle of collective liability, the compensation is paid from a fund created from the proceeds of assessments on employers based on their pay-rolls and on the hazard of their respective industries (p. 59).

Succession.—There is an Act of Ontario, more or less on the same lines as Lord Astor's Bill, to prevent a man who has the power of providing for his widow or children from leaving them destitute (p. 47). This subject was discussed in a recent issue of the *Journal*.[2] By a law of Alberta the University is made the ultimate heir as to property situated in Alberta to any person dying intestate there, and the ultimate heir as

[1] See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. iii, p. xxix.
[2] *Ibid.*, Third Series, vol. xi, pt. iv, p. 269.

to moveables wheresoever situate to any person dying intestate who was domiciled in Alberta (p. 34).

In India a new law alters the Hindu law of inheritance based on ideas about the agnatic family which reach back into the abyss of time (p. 119).

Marriage, Divorce, Legitimacy and Adoption.—In the United Kingdom the Age of Marriage Act declares that " a marriage between persons either of whom is under the age of sixteen shall be void "—a reform which was long due (p. 15). In India the Child Marriage Restraint Act imposes mild penalties, but does not annul the marriage (p. 119). New Zealand legalizes marriage between a man and his deceased wife's niece or a woman and her deceased husband's nephew (p. 96). South Australia adds to the grounds of divorce wilful failure of the husband to pay maintenance persisted in for five years (p. 81). In the Federated Malay States the adultery of the husband is made a sufficient ground of divorce (p. 137). Northern Ireland has an Adoption Act on the English model (p. 25). Northern Rhodesia (p. 113), Nigeria (p. 146) and Grenada (p. 158) introduce legitimation *per subsequens matrimonium.*

Miscellaneous.—Among laws deserving particular attention which do not fall into any of the classes above mentioned we may note the remarkable Censorship Act of the Irish Free State (p. 32), the Rest-homes Act of New Zealand, an admirable example of good social legislation (p. 98), the Antiquities Ordinance in Palestine (p. 167), which seems to deal justly with the difficult problem of reconciling the claims of the digger with those of the State, the drastic law of Western Australia as to Alsatian dogs (p. 93) and the law of Newfoundland constituting a territory with the beautiful name of the Peninsula of Avalon a national reserve for the preservation of caribou and deer of all kinds (p. 63).

BRITISH EMPIRE.

1. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* CECIL T. CARR, ESQ., LL.D., *Editor of Statutes Revised, Statutory Rules and Orders*, etc.]

THE session 19 & 20 Geo. V began in November 1928 and ended in the following May on the eve of the general election. Thus curtailed, the session produced no more than 39 public general Acts. These, though few in number and containing a Finance Act of unexampled brevity, make a substantial volume of nearly 800 pages, more than half being contributed by the Companies Act and the Local Government Act.

Delegated Legislation.—Approximately half the Acts of the session delegate to a department or other public body the power to make rules, regulations or orders. Some of these delegations consist merely of "appointed day" machinery. Others are bolder. Respectable precedent did not protect from criticism one instance in the Factory and Workshop (Cotton Cloth Factories) Act, to be mentioned presently.[1] Protests were heard also against the "Henry VIII clause" in the Local Government Act (c. 17, s. 130), enabling the Minister to make orders "for the removal of difficulties." This particular power is not to be exercised after the year 1930; the difficulties are those which arise "in connexion with the application of this Act to any exceptional area or in bringing into operation any of the provisions of this Act." Critics fastened upon the further words, "any such order may modify the provisions of this Act so far as may appear to the Minister necessary for carrying the order into effect." A narrower clause in the Local Government (Scotland) Act (c. 25, s. 76) enacts that "the Secretary of State may by order make any adaptations or modifications of the provisions of any Act necessary to bring those provisions into conformity with the provisions of this Act." In each of these two instances a safeguard is introduced which has since been used in several other cases. The supreme authority of Parliament is reasserted by insisting that such orders shall operate only for three months unless approved by resolution of both Houses. Though reassuring to constitutional orthodoxy, this device is not free from practical disadvantage. The orders made under the Scottish Act, for instance, are mere drafting amendments consequential upon the re-shuffling of local authorities and their functions. One such order modifies a dozen earlier statutes, affecting the text of twenty-three sections in all[2]; it makes essential adaptations of a

[1] See p. 5.

[2] See the Local Government (Scotland) (Adaptation of Enactments) Order, 1930 (S.R. & O. 1930 (No. 1026), p. 864).

kind which Parliament, had time and inclination permitted, would have made in the Act itself and would not have left to be worked out later. Anyone who notes up these twenty-three amendments in his copy of the statutes may not easily be aware of the exact position at the end of the three months' time-limit when—if the existence of the safeguard is ever to be justified by a refusal to continue the order—he may have to delete them and restore a now meaningless text. Certainty and permanence are valuable elements in legislation.

A proposal to set up a Sessional Committee of members of Parliament to scrutinize departmental rules and orders [1] made no headway for the present. As on previous occasions, the final paragraph of this summary makes reference to the subordinate legislation of the year.

Legislation by Application.—The exigencies of the parliamentary time-table do not encourage the framing of statutes which are complete and self-contained. At an advanced stage of the Bill dealing with Scottish local government, it was decided to insert in the framework a new kind of local authority, the district council. The change threatened to load the Bill with copious fresh clauses to cover the election, meetings, committees, budgeting and other activities of these new bodies. To save time, and to shorten his Bill, the draftsman naturally looks round for standardized clauses which he can apply in general terms. He finds a set which belongs to those parish councils which the Bill abolishes. If such ready-made clothes do not quite fit, there must be " necessary modifications " (see c. 25, s. 26(3)). In much the same way the corresponding English Act (c. 17, schedule 10, paragraph 22) is still keeping alive certain otherwise dead provisions as to the qualifications, elections and term of office of the abolished poor law guardians because they are required for application to rural district councillors.

To apply enactments on one subject for the purposes of another subject is neither a novel nor a necessarily objectionable practice. In exceptional cases it may be awkward if the enactment is repealed in its original context without regard to its subsequent applications. The session under review has an illustration of this point. S. 70 of the Poor Law (Amendment) Act, 1844, created machinery by which justices could summon witnesses and compel their attendance. The Bastardy Laws Amendment Act, 1872, instead of elaborating its own machinery, linked itself to the 1844 Act in order to secure for the mother her right to have her witnesses in court against the putative father. In 1927, in the process of consolidating all the outstanding poor law statutes, the Poor Law Act repealed the 1844 provision and thus (in the view of certain magistrates) took away the mother's right. Consequently in 1929 the Bastardy (Witness Process) Act (c. 38) has to declare that s. 70 of the 1844 Act is still alive " in its application to bastardy proceedings." Generally, s. 38 of the Interpretation Act will save the situation, but the linking process in the 1872 Act was curiously phrased ; the 1872 Act did not so much incorporate the 1844 Act in itself as incorporate itself in the 1844 Act.

Improvement of the Statute Book.—Two useful measures of consolidation stand to the credit of the session. When the Companies Acts were heavily amended in 1928, the Lord Chancellor undertook that the changes should not operate until the principal and amending legislation

[1] See Parliamentary Debates, Commons, vols. 225, pp. 1564–5, and 226, pp. 24–6 and 2505–17.

had been re-enacted in orderly form as a single statute. The Companies Act, 1929 (c. 23) redeems this pledge. The existing code of 1908 had followed closely the initial legislation of 1862. To fit the new law into this old framework was too Procrustean a process. The new Act has a new arrangement, logical in sequence and clear in expression. The other consolidating measure is the Government Annuities Act (c. 29). In replacing a group of enactments covering more than a century, it encounters the usual difficulties, for—as draftsmen need not be reminded—consolidation is not a mere matter of scissors and paste. Three minor problems may be instanced. The changes in government securities in the course of a century make the early Acts awkward to construe and reproduce, there being no modern securities which exactly correspond to those therein mentioned. An early Act of 1832, again, had transferred to the National Debt Commissioners the management of the life annuities which (with that of the annuities for terms of years) had been entrusted to the Bank of England by the Act of 1829; the transfer in 1832 was framed in general terms without consequential provisions; the Commissioners therefore had evolved their own practice with no such statutory basis as a consolidating measure could re-enact. Thirdly, the 1829 Act was passed before the days of compulsory registration of births and deaths; in place of its cumbrous provisions as to the production of evidence of the date of birth, it was now found possible simply to empower the National Debt Commissioners to accept any evidence which they may deem satisfactory.

Against these two improvements of the statute book must be set the devastation of the existing local government law of England and Scotland occasioned by the drastic reorganization of local authorities and their functions which we shall presently examine. Consolidation here is a crying need if laymen are to understand the system which they help to administer. Nothing more was heard in 1929 of the promised simplification of income-tax enactments, and Lord Muir Mackenzie pleaded in vain for the consolidation of the Unemployment Insurance Acts which increase in number every year.

Imperial Arrangements.—An Imperial Conference, after examining the effect of beam wireless competition upon existing cable services between different parts of the Empire, recommended the formation of a Communications Company on public utility lines to take over the Pacific cable, the West Indian cable and wireless undertaking and the Postmaster-General's two transatlantic cables. The Imperial Telegraphs Act (c. 7) sanctions that part of the scheme which required legislation by the United Kingdom Parliament.

Another link of Empire, the Judicial Committee of the Privy Council, receives attention. The Appellate Jurisdiction Act (c. 8), passed into law after several previous attempts, strengthens that tribunal by authorizing the appointment of two additional members with Indian experience. They must either have been judges of an Indian High Court or be barristers, advocates or vakils of not less than fourteen years' standing who practise or have practised in British India. Their salary is £2,000 a year, which may be supplemented by a like amount from the revenues of India; they will hold office subject to removal on address by both Houses of Parliament; retirement is compulsory at the age of seventy-two. The Act also adds a seventh Lord Justice of Appeal in Ordinary to the judicial strength of the House of Lords. These recruitments

were rendered necessary by the decrease in the number of ex-Lord Chancellors and other qualified volunteers available. If the Privy Council sits in at least two divisions, if five members are required for the division which takes Dominion appeals and three or five members for the division which takes Indian or colonial appeals, if moreover the House of Lords is simultaneously sitting as a tribunal of five members, then a roster of thirteen judges is the barest minimum.

Of reciprocal arrangements between different parts of the Empire there is a short Pharmacy Act (c. 31), authorizing the Council of the Pharmaceutical Society of Great Britain to provide for registering, without examination, persons registered as pharmaceutical chemists in Northern Ireland who produce satisfactory evidence that they are persons of sufficient skill and knowledge to be so registered. This reciprocates an arrangement for which the Parliament of Northern Ireland had already made provision.

National Defence.—The Army and Air Force (Annual) Act, which must be passed each year before the end of April if the Army Act and Air Force Act are not to expire, offers opportunity to amend the law relating to His Majesty's forces. In the 1929 Act (c. 20) such amendments are unusually few. There is a set of modifications in view of a change made in 1922 as to the reckoning of a boy's service. There is also a change in s. 145 of the Army and Air Force Acts; this section, often amended before, deals with deductions from pay for maintenance of wife and children.

Agriculture.—The relief of agriculture from the burdens of local taxation had been initiated in the legislation of 1928, described in last year's summary. In 1929 the de-rating of agriculture is finally accomplished by virtue of clauses in the Local Government Acts for England and Scotland. S. 67 of the English Act (c. 17) exempts agricultural land and agricultural buildings (as defined in the Rating and Valuation (Apportionment) Act, 1928) from rates altogether. Part II of the Scottish Act (c. 25) cannot make the same clean sweep because the rating law of the two countries is not identical. In England farmhouses and cottages are valued for rating purposes separately from the farm; it is the farm itself which receives relief from rating. In Scotland, where the owner pays 75 per cent. of the rates and the tenant pays the balance, the farm is valued as a unit including farmhouse, farm buildings and cottages. To give Scotland as far as possible a relief proportionately the same as the relief given to England, the agricultural land and heritages in Scotland, instead of being totally exempted, are rated on merely one-eighth of the gross annual value. The Scottish Act further adjusts the relief as between landlord and tenant.

The Agricultural Rates Act (c. 26) accelerates the farmer's relief in England by ante-dating to April 1 the exemption of agricultural land which otherwise would have operated from October 1. There is a corresponding acceleration of the Treasury grant from the Rating Relief Suspense Account to compensate the local authorities for the loss of rates. This grant goes to the rating authority, not to the spending authority.

For the further support of agriculture in Scotland there is an Agricultural Credits (Scotland) Act (c. 13) on the lines of the English Act of 1928. Part I (long-term credits) arranges for the creation of an agricultural security company, to make advances repayable over a period not

exceeding sixty years; these arrangements follow those for an agricultural mortgage loan company in the English Act except that the financing is on a smaller scale. Part II (short-term credits) discloses greater differences between the two countries. In England the farmer can arrange directly with a bank for a fixed or floating charge on his farming stock and assets; in Scotland, where there was no enthusiasm for experimenting at large with a system of "chattel-mortgages," the scheme of short-term credit merely allows agricultural societies to create in favour of a bank an agricultural charge on their stocks of merchandise. The Scottish farmer, therefore, cannot take advantage of Part II without joining a co-operative society. Success seems to depend on the attitude of the banks.

To protect the dairying interests in England and Scotland there is an Artificial Cream Act (c. 32), which began its existence as the Reconstituted Cream Bill. Recent restrictions on the use of preservatives had injured the raw cream industry and encouraged the commercial exploitation of "reconstituted cream" which has better keeping qualities. Synthetic cream, made from vegetable fats and easily distinguishable on analysis as something which is in no sense cream, could be dealt with under the Food and Drugs (Adulteration) Act of 1928. Reconstituted cream, made by emulsifying butter and adding milk powder and water, has the same chemical constituents as pure natural cream and can be more cheaply produced. One remedy was to enact that reconstituted cream should not be called cream at all; another (eventually adopted in the Act) was to enact that it should not be sold for human consumption under the designation of cream unless the word "artificial" preceded the word "cream." The new Act creates the two presumptions that artificial cream, where sold, is for human consumption unless the contrary is proved, and that "any article having the composition of cream or artificial cream," kept for sale on registered premises, is artificial cream until the contrary is proved. Artificial cream is not to be made or sold except at premises registered by the local authority. The Act defines both "cream" and "artificial cream." Its main section (s. 1)—which forbids the sale for human consumption as "cream" of "any substance purporting to be cream or artificial cream as defined in this Act" unless it either is cream or is described as artificial cream—has raised doubts. Do the confectioner's cream buns or cream sandwiches "purport to be" cream? The new Act incorporates parts of the Food and Drugs (Adulteration) Act of 1928, but does not fit into the fabric of that excellent piece of consolidation.

Employment.—In 1911 a Factories and Workshop (Cotton Cloth Factories) Act authorized the Secretary of State to make regulations for carrying into effect the recommendations of a departmental committee on artificial humidification. In 1929 a similar Act (c. 15) enables regulations to be similarly made to give effect to the report of a new departmental committee. While the Act was passing through the House of Lords, vigorous protests were made by those who regarded it as one more surrender of legislative power to an encroaching bureaucracy. Lord Carson complained that Parliament had not been told what was in the report; the law-courts, he argued, might have to examine the report to see if the regulations conformed to it. Lord Banbury attacked the whole system of delegated legislation by moving an amendment that the regulations should be scheduled to the Act and not left to be made

by the Home Office. In reply the exact precedent of 1911 was pleaded; the Committee's report, it was explained, was not purely departmental but was the unanimous recommendation of representatives of medical research, employers and employed; factory and workshop matters, it was said, had always been deemed suitable for delegation to departmental legislation, and these particular regulations on artificial humidity were so technical that they were better left to expert administrators. Parliamentary control was nevertheless fortified by adding a clause that the regulations must be laid before both Houses in draft for thirty days, during which period either House may pass a resolution rejecting them.

Three Acts relate to unemployment insurance. The first (c. 1) belongs to a series, unhappily not yet ended, increasing the total of the advances which may be made to the Unemployment Fund during the deficiency period, *i.e.* while the Fund is insolvent. Another (c. 19) prolongs for a further twelve months certain transitional provisions under an Act of 1927 which relaxed the insistence upon thirty contributions; the object is to keep persons in insurance who otherwise would lose the statutory benefit for want of complying with the statutory conditions. A third Act (c. 18) confirms an extension of the 1926 Agreement for assimilating the burden borne by the United Kingdom and Northern Ireland Exchequers in respect of unemployment insurance. The Northern Ireland deficit being in excess, the Belfast Government undertakes to extinguish the excess debt by writing off £424,434 forthwith and £100,000 a year in future till the excess is wiped out.

An Electricity (Supply) Act of 1919 *inter alia* provided for compensating workmen employed at the date of the passing of the Act if their employment was disturbed by the operation of schemes under the Act. The schemes took longer to mature than was expected. Consequently a similarly named Act of 1929 (c. 4) repeals the limitation which restricted compensation to men employed on the date named.

Pensions and Superannuation.—The Pensions (Governors of Dominions, etc.) Act (c. 16) gives effect to the recommendations of the Buxton Committee. The maximum pension of an ex-governor, raised to £1,300 per annum by the Act of 1911, is increased to £2,000. Any governor who was appointed from the permanent civil service of the State may, after completing ten years as governor, elect to have his pension calculated under the Superannuation Acts as if on his last civil service salary. Among other concessions there is power for the Treasury to grant a reduced pension under the Superannuation Acts in special cases where an ex-civil servant governor for whom it is impracticable to find appropriate employment in the public service is not qualified for pension either by ten years' service as governor or as having attained sixty years of age. The principal Act is applied to persons serving as Resident at Aden and may be applied by order to the governors of mandated territories. The Superannuation (Diplomatic Service) Act (c. 11) supersedes the Diplomatic Salaries, &c. Act of 1869 save for existing members of the service who decide to remain under the old conditions. The general effect of the new Act is that all persons in the diplomatic service are brought within the Superannuation Acts as though they were permanent civil servants; there are appropriate provisions for special cases. Another class of public servants to receive improved or regularized pension rights in 1929 is that of the metropolitan police magistrates. Their lot was hard. They could attain full pension by serving for thirty

years; as the average age on appointment was fifty-two, the average magistrate would have to serve till eighty-two in order to earn his full rights. But retirement was compulsory at seventy, so that he could expect to earn no more than half the full rate before retiring with eighteen years' service. The Police Magistrates Superannuation (Amendment) Act (c. 37) makes it possible to earn the maximum pension after twenty years, two-sixtieths being allowed after ten years' service instead of one-sixtieth. The new Act amends the text of the principal Act of 1915 a trifle awkwardly; the meaning, however, is clear. The Act of 1915, as thus amended, is to apply to all metropolitan police magistrates unless those appointed before the 1929 Act elect to remain under previous conditions. An apparent omission in the Fire Brigade Pensions Act of 1928 is made good by a similarly named Act of 1929 (c. 35). The earlier Act provided for the return of rateable deductions if a fireman died as the result of his service, but ignored the case of death due to natural causes.

Finance.—The Chancellor of the Exchequer produced a Finance Act (c. 21) of four pages only in which the income-tax and hops duty were continued and three other taxes were repealed. Of the three repealed taxes the customs duty on tea had been a feature of the British fiscal system since the reign of Elizabeth; the excise duty on bets had disappointed the Exchequer; and the railway passenger duty was remitted on condition that the railway companies devoted the capital equivalent of the relief to modernization and re-equipment. When Parliament is made to say that the Railway Passenger Duty Act, 1842, is repealed "so far as relating to railway passenger duty," it will not puzzle those who remember that Acts of that period often deal with many more topics than a short title can conveniently indicate.

The Chancellor spoke of a second Finance Bill, containing longer and less urgent matters, to be introduced after the general election. The verdict of the polls upset this scheme. Though the session contains no Isle of Man (Customs) Act, there are the usual Appropriation Act (c. 22) and Consolidated Fund Acts. The latter (cc. 2 and 10) are entitled "the Consolidated Fund (No. 1) Act, 1928 (Session 2)" and "the Consolidated Fund (No. 2) Act, 1929." Short titles are normally linked to the calendar year; if there are two or more Acts bearing the same short title in the same calendar year, they are distinguished as "No. 1," "No. 2" and so on. The label "session 2" is appropriate to a regnal year citation, not to a calendar year citation; and it looks odd to christen an Act "No. 2" of 1929 when there has been no previous Act of the same title in that calendar year. This somewhat confusing heterodoxy of Consolidated Fund Acts arises because their short titles are consciously related to the financial cycle of the Parliamentary session.

The consolidating Government Annuities Act (c. 29), one part dealing with government annuities, another with savings bank annuities and insurances, has already been mentioned. An important Savings Bank Act (c. 27) amends the law relating to savings banks, savings bank annuities and the Post Office Register; this law also is well-nigh ripe for consolidation. Savings banks are of two kinds—those conducted by the Post Office and those locally managed by unpaid trustees who invest their funds with the National Debt Commissioners at a fixed rate of guaranteed interest. S. 2 of the Act directs that a trustee savings bank is not to be closed unless the Commissioners give consent or the

bank is wound up under the Companies Act. The Commissioners are not to consent unless satisfied that there are no proper persons able or willing to carry on the bank: it was suggested that banks had been needlessly closed in the past. Under s. 3 the National Debt Commissioners may invest savings bank funds in any security guaranteed by Government; previously, one-half of such investments had to consist of securities whereof the interest is chargeable on the Consolidated Fund. Trustee savings banks, in addition to their ordinary business, have been authorized to conduct a "special investments" department if their aggregate cash liability to depositors exceeded £200,000 (as prescribed by the Act of 1904); ordinary depositors of £50 or more can deposit in this special department. S. 6 of the new Act relaxes the £200,000 limit in exceptional circumstances and widens the field of investment of "special investment" deposits by authorizing not more than 20 per cent. of them to be invested "in any government securities which will mature for payment not less than twenty years after the date of the investment." The trustees may apply surplus special investment capital to the purchase of land or provision of buildings for the purpose of the bank. Trustee savings banks obtain a new power (subject to the Commissioners' consent and other conditions) to undertake any business "of a nature ancillary to the purposes of the bank and calculated to encourage thrift and within the financial capacity of the bank." S. 10 lightens the curious statutory restrictions on double accounts. Previously a depositor could not have an account both in a Post Office and in a trustee savings bank, nor more than one account in any one bank; in future he may have accounts in both kinds of banks; the only restriction is that he must not have a deposit in more than one trustee savings bank. S. 11 (which is to be read with s. 38 of the Government Annuities Act) enlarges the limit of an annuity from £100 to £300 a year. S. 12 concerns the Post Office Register, a piece of machinery devised by the War Loans (Supplemental Provisions) Act of 1915 to encourage the small investor to subscribe to war loans. This simplified method of investment is now extended to "any description of government stock," so that the small investor will thus be able to buy pre-war stocks, local loans and other securities through his savings bank. Other provisions of the new Act relate to the vesting of a trustee savings bank's property in four custodian trustees (to avoid multiplying signatures to documents), to the form of security to be given by trustee savings bank officers and to their superannuation allowances and gratuities.

Commerce and Trade.—Apart from the vast consolidation of company law already mentioned, legislation on commercial matters is slight. By way of artificial stimulus to employment the Overseas Trade Act (c. 12) prolongs both the period for giving export credit guarantees and the period during which the guarantees (including renewed guarantees) may remain in force.

The gas industry has sometimes complained that it is fettered by statutory restrictions of an old-fashioned sort and is unfairly handicapped in competition with electricity. The Gas Undertakings Act (c. 24) empowers the Board of Trade to increase by mere departmental order (subject to consent of the local authority) the authorized amount of share capital or loans of gas undertakings. The undertakers, not being a local authority, may borrow on mortgage, or by issuing debenture stock, up to half the aggregate of their paid-up share capital. The authorized amount of reserved funds or special purposes funds is increased;

the power of purchasing residual products is extended; and the supply of gas by undertakers to premises outside the limits of supply may be sanctioned by Board of Trade order. Undertakers not authorized by Act or order to charge for gas on a basis of British thermal units, if in any year since 1927 they have supplied more than 20,000,000 cubic feet of gas, must (after the appointed day) charge on that basis; the maximum or standard price per therm is to be a figure reached by dividing the previously authorized price per thousand cubic feet by five. There is a schedule of minor amendments of the Gas Regulation Act, 1920, and the Board of Trade receives enlarged powers of making special orders under which *inter alia* any enactment regulating a gas undertaking can be modified by introducing more modern provisions from enactments regulating other gas undertakings.

Transport. — Important changes in highway authorities, especially in respect of trunk roads, will be mentioned presently in discussing the Local Government Acts for England and Scotland. Another aspect of through traffic to which attention is given in 1929 is that of bridges built before the requirements of modern mechanical transport were known. Liverpool and Birkenhead, for example, were said to be virtually barred to heavy road transport from the south by the restrictions on bridges over railways in Cheshire and Staffordshire. Railway and canal companies acknowledged no liability to maintain bridges to carry a higher volume or weight than existed in the days when the bridges were built. The Minister of Transport could make grants from the Road Fund to a highway authority for reconstructing a bridge but not to a railway or canal company. Moreover, in a few cases the owners of bridges built under statutory powers were debarred by the enabling enactments from transferring their property or liabilities to a highway authority. The Bridges Act (c. 33) attempts to meet these difficulties. It applies to all " bridges or viaducts by which a public carriage road is carried over any railway, canal, river, creek, water-course, marsh or other place where water flows or is collected, or any ravine or other depression, not being bridges or viaducts for the maintenance and repair of which a highway authority is responsible." " Bridge " includes the road carried thereby and the approaches thereto. The Act authorizes highway authorities to agree with bridge-owners as to contributions towards bridge maintenance and repair, or for transfer to the authority of the property or responsibility. Bridge-owners or highway authorities may apply to the Minister for an order directing reconstruction, improvement, etc., if the bridge is considered dangerous or " unsuitable for the requirements of road traffic as then existing or the anticipated development thereof," or if transfer from the owner is for any reason desirable. The Minister's orders may require the execution of works, decide the responsibility for maintenance, provide for transfers and consequentially modify any local Act. There are safeguards for the bridges of railways, canals and docks and for the mains of gas and other undertakings. Other sections deal with departmental inquiries, the apportionment of costs, arbitration and local authorities' expenses and borrowing.

The Western Highlands and Islands (Transport Services) Act (c. 6) enables a railway company, if authorized by departmental order, to hold shares in a contemplated undertaking for mail cargo and passenger services on the West of Scotland. The railway company, with such other company, may provide services " by sea, air or land." The language

of the Act is vague, but an agreed scheme was already in existence. Normally a railway company would have sought such powers by promoting a private Bill; as the object of the scheme was to provide improved steamer facilities in the public interest, the railway was saved this not inconsiderable expense.

Local Government.—The vast changes in the local government systems of England and Scotland, made by Parliament in 1929, follow certain common lines of policy recommended by Royal Commissions and other expert counsellors. First, there are changes of structure. There are to be fewer and bigger local authorities; inconvenient boundaries, fixed before the modern development of mechanical road transport or even before the existence of railways, are to be revised with greater freedom; the weak local bodies are to be eliminated; sharp contrasts in population or in the product of a penny rate are to be lessened; overlapping is to be avoided; institutional facilities are to be pooled, centralized and specialized. Secondly, there is to be a change in the spirit of administration. Hospital treatment and other health and welfare services are to be removed from the atmosphere of poor relief. Where arrangements can be made for the care or treatment of children, mothers, the sick or the blind either under the poor law or under some special statutory power outside the poor law, the latter alternative is to prevail. Thirdly, there is a change in finance. The de-rating of agriculture and certain other industries being now complete, the local authority must be compensated for the rates which it will lose through this relief. Assistance from the national Exchequer is no longer to be made on a system of percentage grants (which made the amount of the subsidy depend on local expenditure rather than on local need) but on the block grant system so that the local authority has a free hand in applying the money where it is wanted. There are rules for determining the losses on account of lost rates and the losses on account of lost grants. There is to be a General Exchequer Contribution annually to local funds to cover these losses, with Additional and Supplementary Exchequer Grants to guarantee that local authorities will be no worse off for the change. A first "fixed grant period" will run for three years; there is opportunity for periodical revision thereafter. The General Exchequer Contribution is allotted on a formula based on population "weighted" to allow for local poverty, abnormal unemployment and (outside London) density of population per mile of public roads. Poverty receives consideration by calculating the rateable value per head of population and the number of children under five years of age in the particular area. In the case of rateable value the formula takes £10 in England (and £12 10s. in Scotland) as the datum line; in the case of children under five the formula takes 50 per 1,000 of the estimated population as the datum line. The estimated population of the county or county borough in England (or of the county or large burgh in Scotland) is increased by percentages representing firstly the deficiency of the rateable value below the datum line and secondly the excess of children under five above the datum line. The formula may seem formidable in statement but it is said to be simple in operation. Changes in the responsibilities of local authorities relieve small and poor authorities of the heavy burden of maintaining trunk roads. Though government property is legally exempt from liability to pay rates, it is contemplated that the Crown will make contributions in respect of premises occupied for public purposes.

Without attempting detailed description of their every section, the Acts for England and Scotland may now be separately summarized. The Local Government Act (c.17) for England is in eight parts. Part I transfers poor law administration from the guardians to the county councils and county borough councils. As the poor law unit, the parish of 1601 was merged in the union of parishes in 1834; now that union in turn is merged in a union of unions (the county) in 1929. The new poor law authorities are to prepare "administrative schemes" in respect of their new powers; as already stated, they are to give facilities, where possible, "otherwise than by way of poor relief." Public assistance committees and sub-committees are to be set up; but the fine old name of "guardians of the poor" will not wholly disappear, for in county areas there are to be "guardians committees" containing representatives of county and district councils and a proportion of nominated members designed to ensure the services of women and of those experienced and sympathetic workers who have devoted themselves to poor law administration in the past. Receipt of medical or surgical relief in an institution is not to disqualify for membership of the local authority or for receipt of an old age pension. County and county borough councils are to take over vaccination as a matter of public health and also certain functions in relation to infant life protection. When providing hospital accommodation, they are to consult the governors and technical staffs of the voluntary hospitals. Where a patient has been an inmate of one of their hospitals, maternity homes or other residential institutions (other than infectious diseases hospitals), they must do their best to recover the expense from the patient or those responsible for the patient's maintenance. Part I having abolished the guardians, Part II disposes of the guardians' duties under the Births and Deaths Registration Acts and the Marriage Acts as to registration districts and officers. These duties pass with the guardians' poor law duties. Opportunity is taken to convert registration officers into salaried officers. The new authorities are to prepare schemes for the administration of the Registration Acts already mentioned. There is also an amendment of the law as to the method of giving information of a birth or death. Part III deals with highways. What used to be called main roads are now called county roads. The county council becomes the highway authority not only for county roads but also for highways in rural districts. County councils take over, too, all "classified roads" (see 9 & 10 Geo. V, c. 50, s. 17(2)) in urban districts and, by arrangements involving agreed contributions, all the unclassified roads as well. If an urban district has a population over 20,000, its council may claim to undertake the maintenance and repair of county roads within its area. District councils may ask the county council to delegate to them its road responsibilities. The county council must comply as regards unclassified roads unless satisfied that it should refuse on grounds of economy and efficiency in the particular circumstances. As regards classified roads or county bridges the county council has unfettered discretion whether or not to grant the application. If functions are thus delegated to a district council, it acts as agent of the county council; the county council has to approve the works and expenditure. Perhaps as a corollary to the enlargement of a county council's highway powers, the county council is also given town planning powers. Part IV contains miscellaneous local government provisions. S. 46 directs the county council to review the arrangement of districts and to consider

the desirability of altering districts and parishes, non-county boroughs or (if they agree) county boroughs, and of converting rural into urban districts and *vice versa*. The proposals are subject to confirmation by the Minister of Health, who, if any local authority raises an objection, will hold a local inquiry. There is provision for similar periodical reviews at intervals of not less than ten years. The old machinery for altering areas and districts is preserved and amended and there is fresh power to adjust county and county borough boundaries. County councils must also review the electoral divisions of the county and submit their proposed rearrangements to be settled by order of the Home Secretary. All local authorities must make such reports and returns as the Minister of Health requires. S. 52 contains a concession for the travelling expenses of county council members and committeemen. Other sections in Part IV enlarge the maximum period for loan repayment by county and county borough councils, provide for the appropriation of land, allow rural district councils to promote and oppose Bills in Parliament, and arrange for the possible redistribution of functions relating to maternity and child welfare, the notification of births and the supervision of midwives. County councils may agree to contribute to district councils' expenditure on water supply or sewage disposal; district councils may relinquish to county councils on agreed terms any of their public health functions; and, if a district council has failed to provide proper water supply, sewage disposal or other public health services, the Minister may order it to discharge its duty by a certain date; on default, he may transfer its function to the county council. County councils are to prepare schemes, after surveying the existing accommodation, for the proper isolation and treatment of infectious diseases; they are also to formulate arrangements for whole-time medical officers of health. The Minister may make regulations prescribing the qualifications of local authorities' medical officers and health visitors. Finally, there is a provision enabling the London County Council to transfer or delegate various functions to the metropolitan borough councils. Part V of the Act contains the de-rating arrangements, already alluded to in connexion with agriculture.[1] Freight-transport hereditaments (for which see 18 & 19 Geo. V, c. 44, s. 5) obtain relief from rates but must pass on the relief in the form of rebates to selected traffics as listed and explained in the eleventh schedule to the new Act: this part of the English statute applies also to Scotland. The general interference with the law of rating makes it necessary to provide for adaptation of enactments; in particular, the qualifications of jurors, special jurors and voters are affected. Part VI deals with the financial relations (outlined in an earlier paragraph)[2] between the national Exchequer and the local authorities, the discontinuance of certain grants, the winding-up of the old Local Taxation Account, and the payment and allocation of the new Exchequer contributions. A significant power is given to the Minister to reduce a grant if satisfied that the local authority has "failed to achieve or maintain a reasonable standard of efficiency and progress" in discharging its public health functions and that the health or welfare of the local inhabitants is likely to be thereby endangered, or if satisfied that expenditure has been excessive and unreasonable, or if the Minister of Transport certifies that the roads are not satisfactorily maintained. Two other provisions enable councils to contribute to voluntary associa-

[1] See p. 4 above. [2] See p. 10 above.

tions' services for maternity and child welfare, the interests of the blind or the care of defectives. Part VII contains transitional provisions as to property, liabilities and officers—for instance, the compensation and superannuation of existing or transferred officers and the disposal of parish property. Part VIII deals with such general matters as the expenses and borrowing powers of county and county borough councils, departmental inquiries, the power "to remove difficulties" (already discussed on an earlier page) [1] and the definitions required for interpreting the Act. The tenth schedule carries out a task of draftsmanship with remarkable thoroughness by providing tables and clauses whereby references in earlier enactments to boards of guardians, poor law unions and other disappearing institutions, officers and things are compendiously adapted to their new context.

Hardly more than half the size of the English statute, the Local Government (Scotland) Act (c. 25) resembles it in detail as well as in policy. Part I reorganizes local authorities. Burghs are divided into "large" and "small"; the large are those with 20,000 population and the burgh of Arbroath; all the rest are small. County councils (reconstituted under s.8 on a broader basis) and town councils of "large burghs" take over the main functions of parish councils and all the functions of district boards of control. The county councils also take over all the functions of district committees and commissioners of supply and many functions of the town councils of "small burghs," such as maintenance of classified roads, the major health services, valuation, town planning and the registration of births, deaths and marriages. In addition, a departmental order may transfer to county councils other functions of the small burghs in respect of food and drugs, diseases of animals, infectious diseases, milk and dairies and the prevention of river pollution. Education authorities surrender their functions to the county councils or, in the case of the few big burghs which have the dignity of being a county of city, to the town councils of those burghs. The right to a separate police force is restricted; burghs having a population less than 50,000 and not already possessing a separate police force are to be supplied with police constables by the county. The result of this reorganization is that parish councils, district boards of control, district committees, education committees, commissioners of supply and standing joint committees (of county councils and commissioners of supply), making a total of over a thousand local bodies, disappear. Their work will be done by 33 county councils and 201 town councils under the policy of concentrating power in fewer and bigger bodies. When the Local Government (Scotland) Bill first appeared in the House of Commons, it contemplated dividing counties into administrative areas with local committees. Subsequently, as already mentioned,[2] district committees were introduced lest over-centralization should weaken local interest in local government. The functions of the parish councils which go to the new district councils instead of to the county councils are those in which the local touch is specially valuable—for instance, parish trusts and property and allotments. Certain contiguous burghs, named in a schedule, are united; in two cases small counties are combined. S.11 facilitates voluntary, and in certain conditions compulsory, combinations of local authorities. County councils may delegate functions (except as to education or police) to small burghs, district councils or joint

[1] See p. 1 above. [2] See p. 2 above.

committees of small burghs and district councils. As in the English statute, the larger local authorities are to frame schemes of administrative arrangements covering their functions in respect of education, poor law, public health, lunacy and mental deficiency and, in the case of county councils, their road functions. The schemes may provide for committees and for the exercise of delegated functions. As in the English statute again, assistance is not to be by way of poor relief if there is any other way. Assistance here includes (see s. 14(4)) the treatment of sickness, infectious disease and mental deficiency, the health of expectant or nursing mothers, the welfare of blind persons and of children under five, and the feeding, clothing and treatment of school children. As in England, there is a duty to recover the cost of treatment (except for infectious diseases) from those who can afford to pay. The county and large borough councils may prepare schemes for the reorganization and extension of hospital facilities in their areas in co-operation with voluntary hospitals, universities and medical schools. If the Department of Health approves the scheme, the local authority may proceed to supply hospitals and convalescent homes if required, or may contract or arrange for the use of such accommodation or use its own buildings; it may also spend money on health propaganda. The Act contains a power for the Department to take steps where local authorities fail in their duty as to water supply, sewers or drains, housing or public health. Among other provisions in Part I which are not found in the English statute one restricts the reopening of the existing arrangements as to religious instruction in schools; another declares that all rates leviable by a rating authority throughout the whole of its area shall be levied and recovered as one consolidated rate. The de-rating provisions in Part II are similar to those for England except for the slight difference in the Scottish law as to agricultural property.[1] Part III (Exchequer grants and other financial provisions) has already been outlined above[2]; so also has the clause in Part IV for the making of orders adapting or modifying previous enactments.[3] Both the English and Scottish statutes inevitably contain much matter of a consequential and transitional nature; here the draftsman of the Scottish statute usefully has recourse to the expressions "transferor authority" and "transferee authority" (see s. 6(1)). Enough has been said to indicate the striking changes made by the main provisions of the two Acts. They represent a serious attempt to improve local government. Though passed into law as party measures after considerable discussion in the final session of this Parliament, they offered little to catch the favour of the voters at the forthcoming election.

Criminal Law.—A private member's Bill, sponsored by Lord Darling as the Child Destruction Bill, was passed into law after copious amendment, under the more persuasive title of the Infant Life (Preservation) Act (c. 34). It stops a gap in the criminal law. Previously it was murder to take the life of a child when fully born, and felony to procure abortion; but it was no offence to take the life of a child while it is being born and before it is fully born. The Act creates in England the new felony of child destruction, punishable with penal servitude for life; the offence is committed where any person, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother. It was

[1] See p. 4 above. [2] See p. 10 above. [3] See p. 1 above.

necessary, in the interests of *bona fide* surgery, to insert a saving for an act causing the death of a child if done in good faith for the purpose only of preserving the mother's life. Anyone may be found guilty of child destruction who is tried either for infanticide (under the 1922 Act) or for the murder or manslaughter of a child or for an abortion offence within s.68 of the Offences against the Person Act of 1861. Conversely anyone tried for child destruction may be found guilty of an abortion offence within that section. A person acquitted on a charge of child destruction may be found guilty of concealment of birth.

Age of Marriage.—Another private member's Bill emerged as the Age of Marriage Act (c.36). Under the old law a marriage could be validly solemnized (subject to certain consents) between a boy of fourteen and a girl of twelve. The new Act declares that "a marriage between persons either of whom is under the age of sixteen shall be void"; a suggestion that such marriages should be merely voidable was negatived. Introduced with the eloquence of Lord Buckmaster, the measure was found to require enlargement beyond the one-clause Bill of a few lines only which is the reformer's ideal. Two additions were made. It was already a criminal offence to have sexual relations with a girl under sixteen, but there was a possible defence where the accused had reasonable cause to believe the girl to be sixteen or older. The new Act adds that reasonable cause to believe that the girl was the accused's wife shall also be a sufficient defence. A second provision deals with bastardy proceedings by the girl for maintenance of a child born under a marriage made void by the Act.

Northern Ireland.—Since Northern Ireland (as our Journal's summaries show) can now legislate for herself on all subjects save those expressly excepted, the United Kingdom Parliament at Westminster seldom invades the field which has been handed over to the Belfast Parliament. Where United Kingdom Acts repeal or amend an enactment which extended to Northern Ireland, it is desirable that they should state whether, and how far, their new law applies to Northern Ireland. The big Companies Act of 1929 (see s. 384 thereof) contains such a statement. Where the United Kingdom touches enactments which as respects Northern Ireland deal partly with reserved and partly with transferred matters, the following general formula is found convenient:

> This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but subject to this provision this Act shall not apply to Northern Ireland (*from the Expiring Laws Continuance Act*, 1928, 19 & 20 *Geo. V*, *c.* 3, *s.* 2(2)).

Where the Westminster Parliament desires to declare that one of its new statutes may be repealed or amended by the Belfast Parliament, a second formula is usual:

> For the purpose of section six of the Government of Ireland Act, 1920, this Act shall [so far as it relates to matters within the powers of the Parliament of Northern Ireland] be deemed to be an Act passed before the appointed day within the meaning of that section.

The words placed in square brackets in this second formula will not always be required. They are required in the Northern Ireland Land Act of 1929 (c. 14), since the subject of land purchase is a reserved matter with non-reserved elements. The main purpose of this Act was to extend the time limit for the automatic sale of tenanted land under

Part II of the 1925 Act. The appointed day under that Act was not to be later than May 27, 1929; but the number of tenancies to be dealt with had been underestimated and, in order that nearly 20,000 tenants should not lose the benefit of the agreed provisions of the 1925 Act, the time limit is abolished. The new Act contains consequential amendments of the financial procedure for payment of the tenants' annuities and for completion of the settlement between the vendors and the Commission. There are further provisions, partly in the interests of the vendors—for instance, for conferring on the vendor of a holding rights of access to other land which remains vested in him.

Miscellaneous.—Besides the yearly recurrent Expiring Laws Continuance Act (c. 3), a few miscellaneous statutes remain to be mentioned. The Salmon and Freshwater Fisheries (Amendment) Act (c. 39) revises the restrictions on the sale of trout in the consolidating Act of 1923. The 1923 Act defined the annual close season for trout to be as fixed locally by by-law, or, if there is no by-law, the period from August 31 to March 1. By s. 32 it prohibited the sale of trout between August 31 and March 1. There was a saving for acts done for the purpose of stocking waters or artificial propagation of fish or for some scientific purpose, but there was no exemption either for frozen, canned or otherwise preserved trout brought from overseas or for trout caught between those dates at a time when the taking was lawful under a local by-law. Exemptions of this kind had been included in the 1923 Act as respects the sale of salmon, and it was now necessary to insert them as respects the sale of trout.

The discovery of an occasional flaw in the heavy legislation on the law of property in 1925 will cause no surprise. One is revealed by the Law of Property (Amendment) Act (c. 9). The protection of underlessees on the forfeiture of superior leases was dealt with by subsection (4) of s. 146 of the 1925 Act, reproducing s. 4 of the superseded Conveyancing and Law of Property of 1892. But unfortunately s. 146 was elsewhere excluded from application to a lease of agricultural or pastoral land, mines or minerals, a house intended for use as a public-house or beershop, or a house let as a furnished dwelling-house. The new Act removes uncertainties and restores to sub-lessees in these cases the relief which they formerly enjoyed.

The Industrial Assurance and Friendly Societies Act (c. 28) regularizes established practices which had arisen in apparent misunderstanding of the law. Registered friendly societies and industrial assurance companies are formally authorized to insure money to be paid to the member or person assured on the duration for a specified period of the life of his parent, child, grandparent, grandchild, brother or sister, either with or without provision for payment of money in the event of death before the expiration of the period. Another provision legalizes the situation where the repayment of premiums on an endowment policy, when added to other insurance payments, exceeds the statutory maximum amount of insurance on a child. The new Act having in one sense a retrospective effect, further consequential provision is made for the rights of policy-holders concerned.

The prospective discontinuance of the office of stipendiary magistrate for Chatham and Sheerness encountered difficulties because his jurisdiction extended into the petty sessional divisions of North Aylesford and Sittingbourne. It is necessary to provide for matters outstanding

in his court, for court records and so on. The Chatham and Sheerness Stipendiary Magistrate Act (c. 30) makes definite and direct provision for these matters in a schedule, but also empowers the Secretary of State to make "further or better provision" by order if the scheduled arrangements are found "in any way insufficient or defective." This is another, but surely not an improper, instance of the power to remove difficulties by departmental order. As in the case of such orders under the Local Government Act, the statute adds that the order shall not have effect for more than three months unless approved by resolution of both Houses.

Local and Private Acts.—There are 96 local Acts in the session 19 & 20 Geo. V, dealing as usual with such topics as gas, water and electricity supply, and increasing the specific powers of particular public bodies and local authorities. There is one private Act dealing with the trusts of a will. Notable features in the local Acts are the variation of the Rhodes Trust arrangements for scholarships at Oxford and the successful application of four big railway companies for statutory power to provide air transport services. As is well known, the local Acts often do pioneer work by securing a local trial for provisions which are eventually found proper to be applied by a public general Act to the country as a whole. The history of public health law in England can show many instances of this phenomenon. Examples of it in the period now under review include such provisions as the compulsory insurance of motor vehicles and the prohibition of the unauthorized use of other people's motor-cars (not strictly larceny if there was no intent to deprive the owner permanently of his property); here certain towns anticipated the Road Traffic Act of 1930 which was eventually to enact such provisions for the whole of Great Britain.

Church Assembly Measures.—Parliament has handed over a large field of legislation to the Measures which after passing through the Church Assembly are submitted for the Royal Assent upon a resolution of both Houses of Parliament in accordance with the Enabling Act of 1919. Four such Measures became law in the period under review. One alters the Constitution of the Church Assembly scheduled to the 1919 Act by dealing afresh with the representation of the laity in parochial church councils, ruridecanal and diocesan conferences and the House of Laity. Another, the Parochial Registers and Records Measure, brings the parochial register books of baptisms, marriages and burials under the supervision of the bishop. He may establish a diocesan record office wherein, if the records are found to be exposed to danger, loss or damage, a rector, vicar or curate may be ordered by the bishop to deposit the parish books. The order can be enforced by the county court. Clergymen can also deposit their parish records in the diocesan office voluntarily and in proper cases can resume custody of them. The Ecclesiastical Dilapidations (Amendment) Measure makes improvements in a Measure passed in 1923. The Westminster Abbey Measure authorizes the making of a scheme to reapportion the annual income of the Dean and Chapter between three objects—the fabric fund (recently fortified by the response to Dean Ryle's appeal), the stipends of the dean and canons, and the maintenance of the services of the Abbey with other expenses of the Dean and Chapter. A suspended canonry is permanently discontinued. Church Assembly Measures can repeal or amend Acts of Parliament and sometimes use the power freely. These four Measures of 1929, however, have but a slight effect upon the statute-book.

Statutory Rules and Orders.—There were 1,262 Statutory Rules and Orders registered in 1929 (391 general and 871 local). The gross total is slightly larger than in 1928; otherwise it is the smallest for a dozen years. The annually published official volume contains 1,435 pages of text. If comparison is instituted in point of bulk between this secondary or departmental legislation and the primary legislation directly passed by Parliament and described in this summary, it will not be forgotten that the Acts of Parliament are those of a session but the rules and orders are those of a full calendar year. It will also be borne in mind that the rule-making powers are cumulative; if Parliament granted no fresh powers during a session, rules and orders would still continue to be made under all the statutory powers previously granted. There are in 1929 the usual rules and orders relating to air navigation, contributory pensions, diseases of animals, coal mines, education, factories and workshops, and national health and unemployment insurance. Among rules of court are lengthy new Companies (Winding-up) Rules, flowing from the recently passed statute. The new Local Government Acts make their contribution to the total. Regulations under the Agricultural Produce (Grading and Marking) Act attempt manfully to prescribe the grading of apples and pears, broccoli, beef, potatoes and so on. There are interesting groups of Merchandise Marks (Imported Goods) Orders and Safeguarding of Industries (Exemption) Orders. The form of Statutory Rules and Orders continues at a reasonably high standard, though verbose or unnecessary preambles and recitals still occur. Most rules and orders are duly equipped with short titles. One set is named the Public Health (Derati-zation of Ships) Regulations; the subject is not de-rating, as the title might suggest, but de-ratting—keeping down the number of rats on board ships. We owe this unhappy polysyllable, it seems, to an International Sanitary Convention.

2. JERSEY.

[*Contributed by* C. W. DURET AUBIN, ESQ., *Barrister-at-Law.*]

During the year 1929 nine Acts of the States were sanctioned by His Majesty in Council and placed upon the Statute Book of the Island. Of these only one was possibly of other than purely local interest.

Only one Order of His Majesty in Council of general interest was registered by the Royal Court during the period under review.

The Royal Court also during the same period took formal cognizance, and ordered the publication, of a Convention or Declaration (*infra*).

Anglo-French Convention relating to Fisheries.—By Act No. L1 the Royal Court ordered that there be recorded and published in the usual manner the Anglo-French Convention, signed in London on December 20, 1928, redefining the bearings to be employed to determine the various salient points of the limiting line of the zone reserved for French fishers in Granville Bay. This Convention amends the previous Convention of August 2, 1839, and the Regulations of May 24, 1843.

Militia Law.—By Act No. L7 the operation of the Militia Law of 1921 is suspended and a new Law substituted therefor. The new Law marks a very great change of principle, as it provides for the creation of a small volunteer force in the place of the old Militia in which service has always been compulsory upon the Islanders.

Air Navigation.—By the Order in Council No. LII, to be cited as the "Air Navigation (Amendment) (Jersey) Order, 1929," the Air Navigation (Jersey) Order, 1928, is amended in order that, with the necessary exceptions, modifications and adaptations, the following amending Orders to the Air Navigation Act, 1930, may apply in Jersey: the Air Navigation (Amendment) Order, 1928, the Air Navigation (Amendment) (No. 2) Order, 1928, the Air Navigation (Amendment) (No. 3) Order, 1928, and the Air Navigation (Amendment) (No. 4) Order, 1928.

3. NORTHERN IRELAND.

[*Contributed by* SIR ARTHUR S. QUEKETT, K.C., LL.D.]

SESSION 1.

The fifth and last session of the second Parliament of Northern Ireland was opened by Commission on February 26, 1929, and prorogued by the Governor on April 16, 1929. The Parliament was dissolved on May 2. Eight bills were passed into law.

Unemployment Insurance.—C. 1 gives effect to an agreement made between the Treasury of the United Kingdom and the Northern Ireland Ministry of Finance to continue an existing agreement (entered into in 1926) for assimilating the burdens on the Exchequers of the two countries —per head of population—in respect of unemployment insurance.[1] The new agreement included a provision for the gradual writing-off of the liability shown on the suspense account of the Northern Irish Unemployment Fund. The agreement was also confirmed by a parallel enactment passed at Westminster.[2]

The object of c. 7 is to postpone the coming into operation of the "thirty contributions rule." The Unemployment Insurance Act (Northern Ireland), 1928, enacted that a statutory condition for the receipt of unemployment benefit should be "that not less than thirty contributions have been paid . . . in respect of the two years immediately preceding the date on which application for benefit is made"; but the general operation of this particular enactment was postponed until April 19, 1929.[3] Further postponement being deemed necessary, an amending Act had to be passed. An extension of twelve months was effected thereby, but the period was further prolonged in the session 1929–30—see s. 16 of 20 Geo. V, c. 22, p. 26.

Agricultural Loans.—By s. 2 of the Exchequer and Financial Provisions Act (c. 3) the Ministry of Finance is empowered to guarantee the repayment of loans made by banks to occupiers of agricultural holdings for the purchase of seeds and artificial fertilizers. This arrangement was at first temporary, but the time-limit was extended in the session of 1930.

Industrial and Provident Societies.—C. 4 provides that the written consent of a member of an industrial or provident society shall be necessary before that member can be held bound by any amendment of rules registered after he became a member and (*a*) requiring him to take more shares than the number held by him at the date of registration of the amendment, or (*b*) in any other way increasing his liability to

[1] See *Journal of Comparative Legislation*, Third Series, vol. x, pt. ii, p. 24.
[2] 19 Geo. V, c. 18.
[3] 18 & 19 Geo. V, c. 3 (N.I.), ss. 5, 18.

contribute to the share or loan capital of the society. The object of this enactment was to clarify the law, in view of the decision of the House of Lords in the case of *Biddulph and District Agricultural Society* v. *Agricultural Wholesale Society*, [1927] A. C. 76.

Midwives and Nursing Homes.—Part I of the Midwives and Nursing Homes Act (c. 6) makes various amendments in the Midwives (Ireland) Act, 1918; in particular, by strengthening the enactments which prohibit unqualified persons from practising as midwives.

Part II of the Act requires the registration of all nursing homes in registers to be kept by county and county borough councils, and provides for the inspection of nursing homes by officers authorized for that purpose by those councils or by the Ministry of Home Affairs.

Regulation of Petroleum-Spirit.—The object of c. 8 is to bring up-to-date the enactments—mostly to be found in the Petroleum Act, 1871—which regulated the keeping, selling and handling of petroleum-spirit. Amongst other matters, the Minister of Home Affairs is empowered to make regulations as regards petroleum-spirit of a class which is "by reason of the nature thereof or of any substance mixed therewith, likely to be dangerous or injurious to health." Local authorities obtain a power to make by-laws regulating the appearance of petroleum filling stations, with the object of preserving for the enjoyment of the public "the amenities" of any rural scenery, place of beauty or historic interest, public park, or street or place being of interest by reason of its picturesque character. The amending Act also makes the county council of each county a licensing authority for rural areas, instead of the justices of the peace. The Act was preliminary to a consolidation of the statute law which took place in the session 1929–30—see 20 Geo. V, c. 13, p. 26.

Method of Voting and Redistribution of Seats.—A government Bill, introduced for the fulfilment of a long-standing pledge to abolish proportional representation at parliamentary elections, could not fail to be of political importance and to occupy a large share of parliamentary time. But the measure which accomplished that object (c. 5) possesses also a constitutional interest, in view of the provisions of the Government of Ireland Act, 1920, respecting electoral law in Northern Ireland. Under that Act, the members of the Northern Ireland House of Commons were to be elected by the same electors as those entitled to return members from Northern Ireland constituencies to the Westminster Parliament; the election was to take place according to the principle of proportional representation, each elector having one transferable vote; and the total of fifty-two seats was distributed amongst eleven constituencies, each returning at least four members, and, in two cases, eight members. At the same time, an express power was given to the Northern Ireland Parliament to change the law in these respects, after three years from its first meeting. As regards the franchise, the power was exercised by the Representation of the People Act (Northern Ireland), 1928.[1] The purposes of the Bill of 1929 were as follows: (1) To abolish "P.R." and restore the system of direct voting in accordance with the Ballot Act, 1872; (2) As a consequence of (1), to establish single-member constituencies in the Parliamentary Boroughs and Counties throughout Northern Ireland; (3) In view of the establishment of single-member constituencies, to increase the limit on a candidate's election expenditure

[1] See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. ii, p. 24.

from 2*d.* to 5*d.* both in the case of a County election and in the case of an election for a Borough.

The constitutional enactment which empowered the local Parliament to alter the distribution of members amongst the constituencies placed two limitations upon the exercise of that power—the total number of members must not be altered, and due regard must be given to the population of constituencies (other than university constituencies).

The scheme adopted by the Bill of 1929 set up two Parliamentary boroughs—Belfast, having 16 divisions each returning 1 member, and Londonderry, having 2 divisions each returning 1 member. Each parliamentary county was subdivided into single-member divisions, the number of such divisions being, where possible, the same as the number of members which had been assigned to the county as a whole under the "P.R." system. Under that system, however, the two counties of Fermanagh and Tyrone had been combined to return 8 members; by the 1929 scheme the counties were again separated, Fermanagh having 3, and Tyrone 5, divisions, each returning 1 member. The borough of Londonderry had been absorbed in a five-member county for "P.R." elections; it was re-established with 2 single-member constituencies and an extended boundary, whilst Londonderry county was divided into 3 single-member constituencies. The boroughs and counties thus accounted for 48 members, and the remaining 4 were assigned to the university constituency (Queen's University of Belfast). This constituency underwent no change, as it had returned 4 members under the Act of 1920; proportional representation was, moreover, retained in this case.

The Bill was debated keenly and at great length in the Commons. The case put for the measure was that, although the system of proportional representation might be admirable in theory, in practice it was not suitable to Northern Ireland, and that, in adopting the much simpler method of the direct vote in single-member constituencies, the Government was giving effect to the wishes of the generality of the electorate. The Bill received the Royal Assent on the day of prorogation, under the title of "The House of Commons (Method of Voting and Redistribution of Seats) Act (Northern Ireland), 1929."

Session 2.

The party led by Lord Craigavon obtained a substantial majority at the general election, and the former administration remained in office in the third Parliament of Northern Ireland. The first session of that Parliament was opened on May 29, 1929, and prorogued, after several adjournments, on February 24, 1930. Twenty-two public general Acts were passed into law, and five local Acts (including an Act to confirm a Provisional Order made by the Ministry of Home Affairs).

Agricultural Produce.—The Marketing of Dairy Produce Act (c. 14) belongs to the group of measures whose constitutional validity depends in part upon the Northern Ireland (Miscellaneous Provisions) Act, 1928—a statute passed at Westminster in order to relax and elucidate the rigid limits imposed by the Government of Ireland Act upon the legislative powers of the Northern Ireland Parliament. In particular, the Act of 1928 allowed that Parliament to control the export of agri-

cultural produce to Great Britain, the Isle of Man and the Irish Free State in respect of standards of quality and inspection.

Part I of the Marketing of Dairy Produce Act provides for the registration, with the Ministry of Agriculture, of premises upon which butter or cream is produced or prepared for sale or consignment. Part II of the Act requires that any person sending butter or cream from Northern Ireland to Great Britain, the Isle of Man or the Irish Free State must obtain a licence for that purpose from the Ministry, except in the case of small consignments. Part III deals with the finding of adulterants on registered premises; unclean or contaminated milk; and the limit of moisture in butter. Part IV relates to administration and legal proceedings, and includes a provision giving an appeal to the county court judge from decisions of the Ministry where registration of premises under Part I of the Act is refused or cancelled.

Under Part V, the use of the word "creamery" is forbidden in connexion with premises which are not registered as an auxiliary creamery or as a central creamery. The use of the designation "creamery butter" is also forbidden in the case of butter produced in Northern Ireland and sent to Great Britain, the Irish Free State or the Isle of Man, except in cases where the butter has been made at premises registered as a central creamery.

Noxious Weeds.—C. 3 makes various amendments in Part I of the Weeds and Agricultural Seeds (Ireland) Act, 1909. The Act of 1909 enabled the Irish Department of Agriculture to make orders with respect to separate counties (with the consent of the county council in each case) declaring certain plants to be "noxious weeds" in any such county. The Northern Ireland Act dispenses with the necessity for the consent of the county council, and provides that the orders made by the Ministry of Agriculture shall have effect throughout Northern Ireland. Under the Act of 1909 the orders might include ragwort, charlock, coltsfoot, thistle and dock; the 1929 Act omits charlock and coltsfoot, but includes the ox-eye daisy. Prosecution was the only remedy provided by the Act of 1909 for non-compliance with a notice requiring an occupier to cut weeds, but the Ministry of Agriculture can, under the amending Act, carry out the requisition of a notice and recover the cost from the occupier.

Drainage of the Bann Area.—The flooding of the country surrounding Lough Neagh, the outlet for whose waters is the lower River Bann, constitutes a distinct problem in "arterial" drainage. Generations of agriculturists have clamoured for its solution. A succession of expert committees has been appointed, and a remarkable output of technical literature produced. With the grant of separate local administration to Northern Ireland, the problem assumed relatively a larger importance, and the force of local opinion, in its demand for a scheme from the hands of the Northern Ireland Government, became irresistible. By the Drainage Act (Northern Ireland), 1925, considerable powers had been given to the county councils as respects land drainage within their own areas. That Act, however, did not make provision as to the Bann area, beyond setting up, for advice upon drainage questions, an Advisory Committee, composed of officials and representatives of county councils and of interests affected by drainage schemes. The Drainage Advisory Committee proceeded to consider the Bann problem, and in their interim and final reports recommended the Government to carry out arterial

drainage works for reducing flooding on Lough Neagh and the River Bann. These reports were laid before Parliament and published, and in the autumn sittings of 1929 the Government introduced a measure to give effect to the recommendations, which became law in the form of the Drainage Act (c. 20).

Part I of the Act gives power to the Ministry of Finance to carry out the proposed works. It constitutes the Ministry as the Drainage Authority for the area affected. It provides for the abolition of the Lough Neagh Drainage Trustees and for the transfer of the Lower Bann Navigation Trust to the Ministry, but with power to override that Trust so far as may be necessary to carry out the drainage scheme.

The drainage scheme when framed by the Ministry is to be published in draft, and notice of its contents must be given to all persons affected. Before the scheme can be confirmed, an opportunity for the making of objections has to be given, and a public inquiry must be held in respect of any objections received within a specified time and not withdrawn. If the scheme is confirmed by the Ministry, the confirming order operates to confer upon the Ministry all the usual powers of entering on land and acquiring property by agreement or compulsorily, and also various special powers of interference with private rights.[1]

Compensation for the compulsory acquisition of property is to be assessed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, by an arbitrator to be chosen by the Reference Committee under that Act from the panel of official arbitrators. Compensation for other kinds of interference with private rights is to be determined in accordance with the Act of 1919, but the arbitrator is to be a person agreed upon by the Ministry of Finance and the party concerned, or, in default of agreement, appointed by the Lord Chief Justice of Northern Ireland. Special provisions are included in the Act for the protection of fisheries, and for the payment by the Ministry of compensation for depreciation in the value of a fishery or navigation. In default of agreement, the compensation for depreciation is to be determined by an arbitrator to be agreed upon by the parties or appointed by the Lord Chief Justice.

The financial provisions of the Act were based upon a preliminary estimate of £600,000, payable as to two-thirds from the Exchequer of Northern Ireland, and as to one-third by means of local rates. The contribution from local rates is to be made up by the county councils of Antrim, Armagh, Down, Londonderry and Tyrone in specified proportions, the maximum total contribution from rates being limited to a sum of £200,000. The total contribution from rates is to be advanced out of the Government Loans Fund, its repayment being debited to the county councils over a period not exceeding sixty years from the date of the completion of the drainage works.

Part II of the Act contains some amendments of the Drainage Act (Northern Ireland), 1925, and also a provision enabling the council of any county to act, with their consent, as trustees of a drainage scheme framed under s. 27 of the Northern Ireland Land Act, 1925.

De-rating. — The Local Government (Rating and Finance) Act (c. 10) completes the process of de-rating, in so much as it provides for giving, by means of Exchequer grants, relief from local rates in respect

[1] Draft scheme prepared May 2, 1930. Confirmed, after public inquiry, September 15, 1930.

of the following classes of rateable hereditaments : agricultural hereditaments, *i.e.* agricultural lands and buildings ; industrial hereditaments, *i.e.* any hereditaments occupied and used as a mine, quarry or mineral railway, or, subject to certain limitations, as a factory or workshop or a salmon or eel fishery ; freight-transport hereditaments, *i.e.* any hereditament which is part of a railway, canal or dock undertaking, and is occupied and used for the conveyance of merchandise.

The first stage in the process of de-rating had been previously accomplished by the Rating and Valuation (Apportionment) Act (Northern Ireland), 1928, which required the Commissioner of Valuation to distinguish and show the above three classes of hereditaments in the valuation lists.

Part I of c. 10 grants a total exemption of agricultural land and buildings from rates, and it gives relief from rates in respect of a percentage of the apportioned valuation of industrial and freight-transport hereditaments—the percentage being 75 per cent. except in the case of salmon fisheries and eel fisheries, where the figure 60 per cent. is adopted. Provision is made for deductions from inclusive rents so as to enable the rate relief to be passed on to a tenant, where he holds from his landlord at a rent which includes a sum in consideration of the payment of rates by the landlord.

Part II of the Act deals with the " deficiency contribution," which is an annual grant from the Exchequer administered by the Ministry of Home Affairs, the Ministry of Education being consulted in the case of grants to an Education Authority. The deficiency contribution payable to the council of a county borough, borough or urban district, the commissioners of a town and the Belfast Water Commissioners, is to be a sum equal to the deficiency on account of rates due to the provisions of Part I of the Act. The deficiency contribution to be paid to a county council in respect of county, rural district or poor law services is made up of two parts—an annual " standard grant " to be fixed from time to time for periods of five years, and an annual " supplemental grant " in respect of expenditure greater than an ascertained standard expenditure. Where, for any year during a five-year period, a decrease takes place in the standard expenditure of a county, rural district or poor law authority, a deduction may be made from the standard grant so as to adjust the Exchequer contribution to the actual amount necessary for de-rating.

Part III of the Act secures the transmission of the benefit of rate-relief in respect of freight-transport, by means of rebates from the transport charges made in the case of certain selected classes of goods-traffic.

Housing Subsidy.—C. 1 provides that houses conforming to the statutory conditions should be eligible for the government housing subsidy if completed before April 1, 1931, and it extends the permissible dimensions for such houses to a maximum of 700 superficial feet instead of 650 superficial feet.

The Act contains various supplemental provisions designed to prevent evasion of the requirements for the housing subsidy, and, amongst others, a provision imposing upon the house and premises a charge in favour of the Ministry of Home Affairs for a period of three years from the completion of the house. The Ministry is also empowered to restrict the subsidy to special cases, in areas where no urgent need exists for houses of the subsidy class. Provision is made for the removal of disqualifica-

tion in the case of members and officers of local authorities, who accept rate-aided housing facilities.

Loans Guarantee.—By c. 4 an increase is made in the maximum limit of the guarantees which the Ministry of Finance may give in respect of loans for undertakings calculated to promote employment in Northern Ireland, thus bringing the limit up to £14,000,000. The time within which the power of giving guarantees may be exercised is extended until March 31, 1931.

Adoption of Children.—Provision is made by c. 15 for the adoption of infants, in a manner similar to that prescribed for England by the Adoption of Children Act, 1926 (16 & 17 Geo. V, c. 29).

The Northern Ireland Act differs from the English Act in certain respects. The former does not confer upon courts of summary jurisdiction any power of making adoption orders. Moreover, it does not contain any reference to "the prescribed degrees of consanguinity," but substitutes a simpler proviso enabling the court to sanction adoptions where the applicant is less then twenty-one years older than the infant "on being satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order." An existing *de facto* adoption may be sanctioned by the court, notwithstanding the restrictions as to age and sex, provided that the court is satisfied as respects the justice and equity of the case and the future welfare of the infant. The Northern Ireland provisions as to the recording of adoptions in the register are somewhat wider than those in the English Act.

Industrial Assurance and Friendly Societies.—C. 8 is identical in terms with the Industrial Assurance and Friendly Societies Act, 1929 (19 & 20 Geo. V, c. 28), which applies to Great Britain. It legalizes the issue of endowment policies by registered friendly societies and industrial assurance companies. It legalizes the return of premiums paid where the amount of a policy of insurance on the death of a child is less than the statutory maximum sum. It gives to endowment policyholders the right, after one year's premiums have been paid, to surrender the policy and claim either a free paid-up policy at specified rates, or a corresponding surrender value.

Widows' Orphans' and Old Age Contributory Pensions.—C. 17 is parallel to the measure applicable to Great Britain (20 & 21 Geo. V, c. 10). It extends the provisions made by the Northern Ireland Act of 1925 for "pre-Act widows," *i.e.* widows of men who died before January 4, 1926, and provides old age pensions for wives between the ages of 65 and 70, of men who were over 70 on January 2, 1928, and were entitled to old age pensions under the Old Age Pensions Acts by virtue of the Act of 1925. Pensioners are permitted to continue to draw their pensions, and insured persons to qualify for pensions by continuing their insurance as voluntary contributors, after emigration to the Dominions. The Act relaxes the qualifying conditions for pensions arising from the insurance of elderly contributors with a long record of insurable employment. It effects a repeal of the provision of the Act of 1925 for the withholding or reduction of children's allowances and orphans' pensions, in cases where compensation had been awarded under the Workmen's Compensation Act; and it prevents widows' and orphans' pensions from being taken into account in the assessment of damages in an action under the Fatal Accidents Acts. The Act also includes an amendment of s. 8 of

the National Health Insurance Act, 1924, so as to enable provision to be made for the collection of contributions by a method other than that of adhesive stamps.

Unemployment Insurance.—Two Acts were passed in order to keep this service parallel to the Unemployment Insurance service in Great Britain. C. 12 increases the State contribution payable in respect of employed and exempt persons for the purposes of the Unemployment Insurance Acts. C. 22 provides, in the first place, that the minimum age for entry into unemployment insurance shall, instead of being 16 years, be 15 years—the change to take effect if and when the insurance age is similarly lowered in Great Britain. The Act also increases the rates of benefit for persons under the age of 21 years; it increases the rate of benefit for adult dependents from 7*s.* to 9*s.* a week, and amends the conditions for the payment of that benefit. Another provision enables the Ministry of Labour to authorize the use of machines for paying contributions by means of impressed stamps, subject to a fee to cover the extra cost of the use of the machines as compared with the cost of the use of adhesive stamps.

A group of clauses amends the law as to disqualifications for receipt of benefit. The fourth statutory condition—which the claimant had to prove that he satisfied—was that he was genuinely seeking work but unable to obtain suitable employment. This was repealed, and provisions consequential on that repeal are included in the Act. Under these provisions the burden of proof that a claimant is disqualified under the new conditions falls in the first instance upon the administrative authorities. The Act also extends the time within which persons in excepted employment may satisfy the first statutory condition. To satisfy the first statutory condition, a claimant must show that he has thirty contributions in the last two years, but if he has been incapable of work, this two-year period is extended by the period of incapacity up to a maximum of four years. The Act gives a like concession to persons who have been engaged in the "excepted employments" (*e.g.* agriculture, domestic service, government employment, etc.).

S. 16 of the Act extends from twenty-four months to thirty-six months the transitional period during which persons who have not paid thirty contributions in the two years preceding their claims may qualify for benefit. The cost of this extension, and of the extension previously made by 19 Geo. V, c. 7, as well as the cost of part of the original transitional period under 18 & 19 Geo. V, c. 3, is placed upon the Exchequer, and not upon the Unemployment Fund.

Motor Vehicles and Road Traffic.—The Motor Vehicles and Road Traffic Act (c. 21) makes a series of important amendments in the Act of 1926, which forms the basis of this branch of statute law in Northern Ireland.

Under s. 4 of the Act of 1926 the driving licence of a person convicted, for the third or a subsequent time, of exceeding a speed limit must be suspended by the court, and under s. 6 the penalties for this offence are increased in the case of a second or subsequent conviction. S. 1 (1) of the 1929 Act enables previous convictions to be disregarded for this purpose, if twelve months or more have elapsed since the last conviction for a "speed offence." S. 4 of the Act of 1926 gives to the holder of a driving licence a right of obtaining a new licence free from endorsement, if no conviction has been endorsed on his licence for three years.

S. 1 (2) of the 1929 Act provides that this right shall arise, so far as speed offences are concerned, after twelve months. The enactment applies to offences against regulations which fix a speed limit for heavy motor-cars, and to offences against a local speed limit; the general speed limit was abolished by the Act of 1926.

S. 2 provides that on the trial of an indictment for manslaughter, or for doing or causing bodily harm to a person, in connexion with the driving of a motor-car on a public highway, the defendant may be acquitted of the charge contained in the indictment, but be found guilty of reckless, wanton or dangerous driving.

The Act of 1926 created the offence of being "drunk while in charge on any highway or other public place of a motor-car." S. 3 of the present Act replaces these words by the following: "found when driving or attempting to drive, or when in charge of, a motor-car on any highway or other public place, to be under the influence of drink or drugs to such an extent as to be incapable of having proper control of the vehicle."

S. 4 provides that motoring offences which are within the cognizance of a court of summary jurisdiction shall be tried by a resident magistrate sitting alone.

Under the Act of 1926 a licence to drive a public service vehicle could not be issued to any person under the age of twenty-one years. The amending statute enables the licence to be granted to a person aged nineteen, if limited to the driving of public service vehicles with seating capacity for not more than six persons.

The 1929 Act makes provision for the control by the Ministry of Home Affairs of the routes and running of public service vehicles, and enacts that, where conditions are imposed by that Ministry, the fares for the vehicles in respect of which the conditions apply are to be subject to the jurisdiction of a special tribunal. This tribunal consists of three persons appointed by the Governor of Northern Ireland, and they have jurisdiction to fix passenger fares, and rates for luggage and parcels, in the case of those public service vehicles whose routes and running are subject to conditions imposed by the Ministry of Home Affairs. A question of fares may come before the tribunal upon a reference from the Ministry when imposing new conditions; upon a representation from the Ministry to the effect that any fares ought to be reconsidered or revised; or upon an application from a local authority or body of persons or from a person aggrieved.

A decision of the tribunal is final, except that an appeal from them on a point of law lies to the Supreme Court in accordance with Rules of Court. The tribunal have power to order the costs of their sittings to be paid by an applicant if, in their opinion, the application is unreasonable or vexatious. The remuneration (if any) and expenses of the tribunal, and the costs and expenses of their sittings, are defrayed out of the Road Fund (Northern Ireland).

The Act empowers the Ministry of Home Affairs to make regulations as to the use on public highways of all kinds of vehicles, and for the control of traffic, both vehicular and pedestrian, including control by means of mechanically worked signals.

Street Trading.—The Street Trading (Regulation) Act (c. 9) makes it unlawful for any person "to sell, or expose or offer for sale, any article or thing from or upon any vehicle, barrow, cart, stall or other receptacle occupying a stationary position at a place in the carriage-way or footway

of any street " without a licence from the local authority. This prohibition applies also to a person selling articles or exposing or offering them for sale without making use of a vehicle, stall, etc. ; but an exemption is given to the itinerant vendor who keeps on the move, except for necessary stoppages, in pursuit of and while conducting his trade. The Act applies to urban districts and towns under town commissioners, but it may be extended by orders of the Ministry of Home Affairs to county boroughs and to small towns situate in rural districts and not being under separate municipal government. An appeal is given from the local authority to a petty sessions court consisting of a resident magistrate, in any case where the local authority refuses to grant or renew a licence, or revoke or vary a licence. The local authority is also empowered by the Act to acquire or extinguish market rights which are in the hands of other parties, so as to enable the local authority to exercise its powers as to street trading in the market area. Compensation for market rights thus dealt with is to be determined, in the absence of agreement, by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919.

This legislation is similar to that which has been locally enacted for the London area, as, for instance, by the London County Council (General Powers) Act, 1927. The Northern Ireland Act includes a section empowering the local authority to make and recover, from persons licensed by them, charges for services rendered by the local authority *to any such person* in removing refuse or otherwise. Thus the local authority cannot make a charge upon street traders generally for these expenses, but only upon an individual stall-holder receiving services. The London County Council Act empowered the borough councils to make similar charges upon *persons licensed by them* ; and, upon the hearing of a summons taken out by the Westminster city council for the recovery of charges, the Metropolitan Police Magistrate held that the city council were not entitled to charge all stall-holders, irrespective of services rendered.

Stamp Duty on Solicitors' Certificates.—A provision of the Finance Act, 1929 (c. 2) gives effect to an agreement which had been arrived at with the Government of the Irish Free State for the mutual recognition of the stamp duty paid upon solicitors' certificates. This enactment and a parallel enactment of the Irish Free State Parliament together afford relief from double duty in the case of any person who, at the time when the enactments became law, was entitled to practise as a solicitor both in the Irish Free State and also in Northern Ireland. If such a person holds the stamped certificate of the Incorporated Law Society of Ireland the corresponding certificate of the Northern Ireland Society is to be deemed to be duly stamped for the purposes of Northern Ireland duty. A stamped Northern Ireland certificate will enable the Free State certificate to escape Free State duty in the same way.

Amendment of Bankruptcy Laws.—The law of bankruptcy in Northern Ireland is mainly contained in the Irish Bankrupt and Insolvent Act, 1857, and some amending enactments passed in the years 1872 and 1889, and it has remained for the most part unaltered since the last-mentioned date. The necessity for an amendment of this code to bring it into harmony with modern requirements was emphasized by the fact that the law of bankruptcy in England was revised and consolidated by the Acts of 1913, 1914 and 1926. Accordingly, the Minister of Commerce

for Northern Ireland established a Departmental Committee to consider and report what amendments in the bankruptcy law experience had shown to be desirable. The Bankruptcy Amendment Act, 1929 (c. 1) was passed in order to give effect to recommendations arrived at by this Departmental Committee, who had heard a number of witnesses and had ascertained the views of professional and commercial associations in Northern Ireland. The general effect of the Act is to assimilate the law in Northern Ireland to that which is in force in England under the Bankruptcy Act, 1914.

Part I of the Act provides that a return of "No Goods" by the Sheriff shall be an act of bankruptcy. It provides also that where a debtor has secured the assent of three-fifths, in number and value, of his creditors to a deed of arrangement, the deed shall not be regarded as an act of bankruptcy, and shall be binding on all the creditors. The second sitting before the court is abolished both in arrangements and in compositions after bankruptcy, whilst the power of the court is extended so that it can order a special sitting for any sufficient reason.

Part II of the Act deals with proof of debts, property available for payment of debts, the effect of bankruptcy on antecedent and other transactions, and the realization of property.

Part III contains an enactment that a married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the bankruptcy laws as if she were a *feme-sole*. The Supreme Court rule-making authority is empowered to provide, by rules, for the administration according to the law of bankruptcy of the estates of persons dying insolvent, and the Act lays down the substantive amendments of law which are to take place after such rules have been made.

Part IV of the Act creates various bankruptcy offences, as, for instance, where an undischarged bankrupt obtains credit, or where a bankrupt or an arranging debtor indulges in gambling or fails to keep proper accounts.

Finance.—A special fund for local loan issues, called the "Government Loans Fund," was established by the Government Loans and Exchequer Provisions Act, 1925. That statute contemplated that issues out of the Fund should be subject to the authority of an annual Act of Parliament, similar to the annual Public Works Loans Acts which control the Local Loans Fund in Great Britain. The Government Loans Act (c. 5) alters this arrangement by abolishing the requirement of an annual Act, and at the same time places a limit of £2,750,000 upon advances from the Government Loans Fund, pending further parliamentary authority.

Criminal Lunatic Asylum.—C. 19 constitutes a part of the Londonderry Prison as the criminal lunatic asylum for Northern Ireland and makes provision with respect to criminal lunatics who had previously been maintained in the Central Criminal Lunatic Asylum at Dundrum, in the Irish Free State, or in district asylums or gaols in Northern Ireland.

Improvement of the Statute Book.—A step in this direction is taken by c. 13, which consolidates the enactments relating to petroleum and petroleum-spirit. This task had been rendered urgent by the amending Act passed earlier in the same year. The Bill was examined by a Joint Select Committee of the Senate and House of Commons.

4. IRISH FREE STATE (SAORSTÁT ÉIREANN).

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Public Acts passed—42.

Constitution.—During the year there were four Acts amending the Constitution of Saorstát Éireann. By the Constitution (Amendment No. 14) Act (No. 8), Art. 39, which deals with Bills initiated in the Senate, is amended by the deletion of the words "If rejected by Dáil Éireann it shall not be introduced again in the same session but Dáil Éireann may reconsider it on its own motion." Thus a Bill passed by the Senate, but rejected by the Dáil, may now be reintroduced in the same session.

By the Constitution (Amendment No. 15) Act (No. 9), Art. 52 is deleted and a new Article substituted therefor. This Article dealt with the Executive Council and provided that those Ministers who formed the Executive Council should all be members of the Dáil, and that they should include the President, the Vice-President and the Minister for Finance. The new Article provides that the Executive Council shall include these Ministers and that all the members of the Executive Council shall be members of the Dáil save that one of such members (other than the President, Vice-President and Minister for Finance) may be a member of the Senate. Consequential on this amendment Art. 57 is amended to read as follows: "Every Minister shall have the right to attend and be heard in Seanad Éireann and in Dáil Éireann." The provisions of Art. 50, which deals with amendments to the Constitution, are amended by the Constitution (Amendment No. 16) Act (No. 10), which substitutes sixteen years for eight years from the coming into operation of the constitution as the period after which amendments of the Constitution before becoming law must be submitted to a Referendum of the people. Under Art. 34 it is provided that in the case of the death, resignation or disqualification of a member of the Senate his place shall be filled by a vote of the Senate. Under the provisions of the Constitution (Amendment No. 11) Act (No. 34) this is changed by providing that in future such a vacancy shall be filled by an election at which the members of the Senate and the Dáil shall vote together by secret ballot.

Finance.—The Finance Act (No. 32) continues income-tax (3*s.* in the £) and surtax as before. Part II of the Act makes important changes in the basis of assessment to income-tax. S. 9 provides that where income-tax under Schedule D was formerly computed on the full amount of the balance of profits upon an average of three years, it shall in future be computed on the full amount of profits of the year preceding the year of assessment. Provision is made for the case of a trade, profession or vocation which has commenced within the year preceding the year of assessment, and it is provided that the section is not to apply for the purposes of the computation of profits chargeable under Case VI of Schedule D, but Rule 2 applicable to that case is amended by providing that the computation of profits shall in no case be made according to an average of a period greater than one year. S. 12 makes provision for the case of discontinuance of trades, etc., during the year of assessment and for the case of the death of a person, who would have become chargeable under the section had he lived. Under s. 14 provision is made for

relief in respect of losses sustained in business and for which no allowance has hitherto been made, and s. 16 provides for apportionment of profits.

Assessments under Schedule E are dealt with by s. 17, which provides that the tax shall in future be computed on the amount of salaries, etc., for the year preceding the year of assessment.

Part III of the Act, dealing with customs and excise, continues the duty already imposed by s. 12 of the Finance (No. 2) Act, 1915, and gives power to the Revenue Commissioners to exempt cinematograph films of an educational value from duty. By s. 23 certain exemptions are made in the case of woven tissues of wool or worsted, and by s. 25 the duties on omnibuses are increased in proportion to the seating accommodation. By s. 26 an excise duty of £3 is imposed on every person taking out a licence for dealing in game. A person making a knowingly false or misleading return in relation to the duty on bets is guilty under s. 32 of an offence and liable to an excise penalty of £500. Under Part V of the Act (s. 35) solicitors are given relief in respect of the payment of double duty on their certificates to enable them to practise in Saorstát Éireann and Northern Ireland, but the operation of this section is made dependent on similar legislation being passed by the Parliament of Northern Ireland.

By the Finance (Customs and Stamp Duties) Act (No. 5), s. 3, provision is made giving the Revenue Commissioners power to exempt manufacturers of motor tractors, where a substantial proportion of such motor tractors are exported from Saorstát Éireann, from the payment of duty on the importation of motor-tractor parts for such manufacture. This provision, it would appear probable, has special reference to Messrs. Ford, who employ a great number of workers in their motor-tractor factory in Cork.

Courts of Law.—By the Courts of Justice Act (No. 37), provision is made for the appointment of temporary circuit judges to act in cases of the illness, or absence on other public duties or services, of a circuit judge. This provision was particularly necessary owing to the appointment of the circuit judge for Dublin as chairman of various commissions set up by Dáil Éireann.

Owing to a campaign for the intimidation of jurors and witnesses in criminal cases, special drastic legislation was found necessary, and the Juries (Protection) Act (No. 33) provides (s. 3) that the jury panel shall be treated as a confidential official document, (s. 4) that the public shall be excluded during the calling of the panel, and that jurors shall be referred to in court, not by their names but solely by their numbers on the jury panel.

The importance of the Act is particularly exemplified in s. 5, which provides that in criminal trials a majority verdict of nine members shall be sufficient to determine the verdict, and it is only in the case of a capital offence that there is to be any disclosure as to whether the verdict was unanimous or not. In the latter case the foreman of the jury is to notify the judge privately whether the verdict was unanimous and the number of dissentients (if any). S. 6 deals with the attitude which had been frequently adopted by prisoners of standing mute or "refusing to recognize the court." Formerly in such cases a jury was empanelled to try whether such persons were mute "of malice" or "by the visitation of God," but this was found unsatisfactory, and this section provides that in such cases the judge shall hear evidence relevant to such an issue, and

if he finds the prisoner mute " of malice " he shall direct a plea of " not guilty " to be entered for him. The judge is also given power, where a prisoner at any stage of his trial " displays gross disrespect to the court," or " refuses to recognize the court," to impose a sentence of imprisonment not exceeding six months (subs. 3). Provision is made by s. 7 for the clearing of the court in certain cases, and the exclusion, on the order of the judge, of certain representatives of the press, and s. 8 empowers the judge in certain circumstances to adjourn the trial of prisoners then awaiting trial before him. The publication of the names of jurors in criminal trials is made an offence by s. 9, and s. 10 provides for the service of jurors' summons by ordinary and not by registered post.

The penalties for intimidation of jurors imposed by s. 11 are a fine not exceeding £50 or imprisonment not exceeding six months, or both, and loitering without lawful reason in the vicinity of a criminal court is made an offence under s. 12. The Act is only to continue in force until September 30, 1931.

An Act which aroused a considerable amount of public interest was the Legal Practitioners (Qualification) Act (No. 16), which provides that a competent knowledge of the Irish language shall be an essential qualification for admission to practice as a barrister-at-law or solicitor in Saorstát Éireann. A person seeking admission to practice as a barrister-at-law must satisfy the Chief Justice that he possesses a competent knowledge of Irish, and a person seeking to become a solicitor must, before becoming apprenticed, pass a first examination in Irish and before practising as a solicitor, pass a second examination in that subject. It is provided that the Act shall not apply to any person who was over the age of fifteen years on the first day of October, 1929.

Censorship.—Probably the most contentious statute on the statute book of Saorstát Éireann is the Censorship of Publications Act (No. 21). This Act was heralded by a keen discussion in the press and excited almost world-wide interest. The Act is expressed to be " An Act to make provision for the prohibition of the sale and distribution of unwholesome literature . . . and to restrict the publication of reports of certain classes of judicial proceedings." A board is established to be called the Censorship of Publications Board, consisting of five members, to be appointed by the Minister for Justice, such members to hold office for three years. S. 6 deals with prohibition orders, which may be made by the Minister in respect of a book which is in the opinion of the Board " in its general tendency indecent or obscene " or which " advocates the unnatural prevention of conception, or the procurement of abortion or miscarriage, or the use of any method, treatment or appliance for the purpose of such prevention or such miscarriage." Similar provisions are contained in s. 7 with reference to periodical publications, the prohibition in the case of a periodical not previously prohibited, to be in force for three months. Under s. 10 it is unlawful to import for distribution, sell or distribute any prohibited book or periodical publication, and the maximum penalties provided are a fine of £50, or six months' imprisonment, or both. The Minister is empowered to grant a permit to special persons to import, sell and distribute any special prohibited book or periodical. Under s. 11 a register of prohibited publications is to be kept, and it is the duty of customs officials examining the baggage of incoming travellers to exhibit a list of all books which are at the time being the subject of a prohibition order. Part III of the

Act deals with reports of judicial proceedings. S. 14 makes it unlawful (1) to publish in relation to judicial proceedings any indecent matter or any indecent medical, surgical or physiological details "the publication of which would be calculated to injure public morals" and (2) to publish particulars of divorce proceedings other than certain specified matters such as the names of the parties, witnesses, points of law, etc. The maximum penalties for the contravention of this section are a fine of £500, or six months' imprisonment, or both. The prohibition of publications which advocate contraceptives is contained in s. 16, and certain amendments in s. 3 of the Indecent Advertisements Act, 1889, to extend the scope of this Act are contained in s. 17. It is unlawful under s. 18 to sell, or import for sale, indecent pictures, and district justices are empowered to issue search warrants where the civic guards suspect that indecent pictures are being kept for sale. The Obscene Publications Act, 1857, is repealed by s. 19 (3).

Copyright.—Uncertainty as to the position of copyright in Saorstát Éireann is set at rest by the Copyright (Preservation) Act (No. 25), which provides that every copyright which was subsisting in the late United Kingdom of Great Britain and Ireland on December 5, 1921, under the Copyright Act, 1911, shall subsist and be deemed always to have subsisted in Saorstát Éireann, and so far as is necessary for this purpose the Copyright Act, 1911, is deemed always to have had, now to have, and hereafter to continue to have full force and effect in Saorstát Éireann. Under s. 4, however, it is provided that no remedy or relief shall be recoverable or granted in respect of any infringement in Saorstát Éireann before the passing of the Act of a copyright declared by the Act to have subsisted in Saorstát Éireann.

Totalizators.—The use of this apparatus is recognized by the legislature for the first time in the Totalizator Act (No. 22), and s. 2 of the Act prohibits the use of totalizators, except under licence granted by the Minister for Finance. Under s. 4 the Minister may authorize the Revenue Commissioners to set up totalizators at such places and on such occasions as he may think fit, the proceeds to be paid into, or disposed for the benefit of, the Exchequer in such manner as the Minister shall direct.

Land Laws.—The Land Act (No. 31) deals with the following matters: (1) It gives the Land Commission power in certain cases to appoint "limited administrators" where the owner of a holding is dead and an exchange or consolidation of the holding is taking place; (2) it provides for the fixing of a standard purchase annuity of holdings subject to non-judicial rents; (3) it makes certain amendments in the Land Act, 1923, with regard to fisheries "appurtenant to the lands"; and (4) it gives the Land Commission power to purchase ancillary fisheries or fishing rights where the same are considered necessary for the proper use of a fishery already vested in the Land Commission.

The Civil Service.—The decision of the Privy Council in the case of *Wigg and Cochrane* v. *Attorney-General of the Irish Free State* [1] (discussed and upheld by the Privy Council in *In re Compensation to Civil Servants under Article X of the Treaty* [2]) as to the principles of assessment of compensation under Art. 10 of the Treaty resulted in an agreement being come to between the British Government and the Government of Saorstát Éireann on June 27, 1929, interpreting and supplementing this Article of the Treaty, which dealt with the payment of compensa-

[1] 1927, Irish Reports 285. [2] 1929, Irish Reports 44.

tion to officials and other public servants discharged or retiring in consequence of the change of Government.

This agreement is confirmed in Saorstát Éireann by the Civil Servants (Transferred Officers) Compensation Act (No. 36), which establishes (s. 3) a Civil Service (Compensation) Board consisting of a chairman (who must be a judge of the Supreme Court, High Court or Circuit Court), a panel of five persons appointed by the Minister for Finance and a panel consisting of the twenty-five persons named in the Second Schedule to the Act, and called " the officers' panel." At each sitting the Board consists of the chairman and two members from each of the panels.

Under s. 10 the jurisdiction of the Board is to inquire into every claim for compensation under Art. 10 referred to them by the Minister, and to determine whether the applicant is entitled as a transferred officer to compensation under that Article, and if so, the amount of such compensation. The decision of the Board is final and conclusive, and no appeal lies from it. S. 14 provides for the preservation of tenure of office of transferred officers, and s. 15 provides for the fixing by the Board of the date from which the retirement of transferred officers shall take place. Under s. 16 the payment of compensation is suspended in certain cases, *e.g.* where the transferred officer is employed at a remuneration equal to, or greater than, that of his former office. The Minister is empowered by s. 17 to deduct from compensation a debt which is shown to the satisfaction of the Board to be due by the transferred officer, to whom the compensation is payable, to any government department.

Destructive Insects and Pests.—Act No. 7 extends the powers of the Department of Agriculture and Technical Instruction for Ireland, as to the removal or destruction of crops infected by insects, and provides (s. 4) for the payment of compensation to persons whose crops are destroyed, and the method of assessment of such compensation. S. 6 provides for the spraying of potatoes and gives the Department power, where a " spraying notice " is disobeyed, to cause the crop to be sprayed at the expense of the owner.

Pensions.—The Superannuation and Pensions Act (No. 11) extends the classes of persons to whom pensions were payable under the Superannuation Act of 1923. By s. 2 the Minister for Finance is empowered to grant pensions to ex-members of the Royal Irish Constabulary, who retired by reason of their " national sympathies," even though not so certified in accordance with the provisions of s. 5 of the 1923 Act. S. 3 provides, in certain circumstances, for the payment of pensions to the widows of ex-members of the Royal Irish Constabulary.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[It is hoped to publish this Summary in the next *Review*.]

2. ALBERTA.

[*Contributed by* John D. Hunt, Esq., *Clerk of the Executive Council*.]

Ultimate Heir.—By Act No. 11 the University shall be ultimate heir of any person dying intestate in fact as respects any property situated in the Province of Alberta, and of any person domiciled in

Alberta, dying intestate, as respects any moveable property or chose in action, wheresoever situate.

This amendment shall apply to the estate of any intestate dying before its passing, in so far as such estate remains unadministered.

If the personal representative of any deceased person dying intestate in respect of all or any portion of his estate has not within two years after the death of such person learned of any next-of-kin entitled by law to such estate or portion thereof, he shall transfer and deliver the same to the University and shall thereupon be entitled to be discharged from all liability in respect thereof.

Women's Institute.—Act No. 6 is a new Act which takes the place of the Women's Institute Act, being c. 165 of the Revised Statutes of Alberta, 1922, which is hereby repealed.

The objects of Women's Institutes shall be to improve all social conditions in rural and other communities by use of the means set out in the Act.

All the existing institutes together with all institutes hereafter incorporated are declared to be associated together as a body corporate with perpetual succession and a common seal, with the objects of promoting, supervising and co-ordinating the activities of Women's Institutes.

Insurance.—By Act No. 62 " accident insurance " means insurance by which the insurer undertakes to pay insurance money in the event of accident to the person or persons injured.

" Sickness insurance " shall mean insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured.

The insurer may with the approval of the Superintendent of Insurance adopt the American Men Ultimate Table of Mortality (A M 5) with interest at $3\frac{1}{2}$ per cent. per annum for the valuation of contracts issued on and after January 1, 1929.

No insurer shall issue any contract of life insurance that shall not appear to be self-supporting upon reasonable assumptions as to interest, mortality and expenses.

An amendment makes it no longer necessary to print on policies the words " Licences under the Alberta Insurance Act, 1926."

An amendment eliminates any doubt as to the effect of statutory conditions and exempts fire insurance contracts under certain conditions from the terms thereof.

Security Frauds Prevention.—Act No. 10 provides for the registration of stockbrokers and enacts that " fraud," " fraudulent " or " fraudulent act," in addition to its ordinary meaning, shall include : (i) any intentional misrepresentation by word, conduct or in any manner or any material fact either present or past and any intentional omission to disclose any such fact ; (ii) any promise or representation as to the future which is beyond reasonable expectation and not made in good faith ; (iii) any fictitious or pretended trade in any security ; (iv) the gaining of or attempt to gain, directly or indirectly through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable and unreasonable ; (v) generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or as to the value of such security ; (vi) the making of any material false state-

ment in any application, information, material or evidence submitted or given to the Attorney-General, his representative, or the Registrar under the provisions of this Act, or the regulations or under any prospectus or return filed with the Provincial Secretary; (vii) the violation of any provision of this Act or of the regulations relating to the manner in which brokers or salesmen shall trade in securities and anything specifically designated in the regulations as coming within the meaning of this definition; (viii) any artifice, agreement, device or scheme to obtain money, profit or property by any of the means hereinbefore set forth or otherwise contrary to law.

Every person who violates any provision of this Act or the regulations designated as an offence, or who does any fraudulent act not punishable under the provisions of the Criminal Code, shall be liable upon summary conviction to a penalty of not less than $500 nor more than $1,000 for the first offence, and not less than $1,000 nor more than $2,000 for a second or subsequent offence, and in case of either a first or subsequent offence either in default of payment of any penalty imposed or in addition to such penalty to imprisonment for a period not exceeding six months.

Maintenance Orders. — By Act No. 15 the definition of "child" has been amended to exclude "illegitimate child."

The provisions relating to the liability of the father of an illegitimate child have been repealed, leaving the question of the support of illegitimate children to be dealt with under the provisions of the Children of Unmarried Parents Act.

Real Estate Agents Licensing.—By Act No. 67 no person who is not the holder of a licence as a real estate agent or a real estate salesman shall collect or attempt to collect compensation for any act or expenditure done or incurred by him in respect of the negotiation of any sale, exchange or purchase of real estate.

Game.—By Act No. 5 "house" shall mean any shelter that has been constructed by a muskrat or beaver for the purpose of feeding, resting or sleeping therein.

The waters of any lake or river now constitute a fence, in defining enclosed land.

Red squirrel has been added to the list of fur-bearing animals protected from April 1 to November 1.

No person shall be entitled to obtain a licence to hunt, trap, take, shoot, wound or kill any fur-bearing animal unless he has been resident in the Province of Alberta for twelve months immediately prior to the date on which any such licence is applied for.

A non-resident is thus prohibited from trapping fur-bearing animals at any time.

Vehicles and Highway Traffic.—By Act No. 52 no person shall drive a motor vehicle on a highway unless he has a driver's, dealer's or chauffeur's licence.

A person over the age of fifteen years shall not be deemed to act in contravention of this Act if while driving a motor vehicle he is accompanied by a person sitting beside him who is the holder of a driver's licence and is engaged in teaching the first-named to drive.

The Minister may refuse a driver's or chauffeur's licence unless he is satisfied of the physical and other competency of the applicant to drive without endangering the safety of the public.

Old Age Pensions.—By Act No. 24 provision shall be made for

the payment of pension to every person who at the date of the proposed commencement of the pension (*a*) is a British subject, or being a widow who is not a British subject but was such before her marriage; (*b*) has attained the age of 70 years; (*c*) has resided in Canada for the twenty years immediately preceding the date aforesaid; (*d*) has resided in the Province in which the application for pension is made for the five years immediately preceding the said date; (*e*) is not an Indian as defined by the Indian Act; (*f*) is not in receipt of an income of as much as $365 a year; and (*g*) has not made any voluntary assignment or transfer of property for the purpose of qualifying for a pension.

The receipt of pension shall not be a disqualification from voting at any provincial or municipal election.

The maximum pension payable shall be $240 yearly, which shall be subject to reduction by the amount of the income of the pensioner in excess of $125.

3. BRITISH COLUMBIA.

Acts passed—77; Public—68; Private—9.

The following are the more important Acts of general interest.

Companies.—A new Companies Act (c. 11) was passed bringing the company law of the Province up to the standard of recent legislation in England and elsewhere. Certain obsolete provisions were dropped, and changes were made to simplify the procedure for the commencing of business by a new company. The winding-up provisions of the Act were entirely recast and made practically identical with the English Companies Act.

The principal new feature in the Act is the provision for shares of no par value. This innovation, which started some fifteen years before in New York State, has since been adopted in the Companies Act of Canada and in the Acts of some of the Provinces. A considerable demand for the provision led to its adoption in British Columbia.

Constitution, Provincial.—An amendment (c. 14) was passed to the Constitution Act removing the former requirement that Ministers of the Crown on appointment to office must be re-elected to the Legislature. This brings the Act into line with recent enactments in England and in four other Canadian Provinces, as well as in some other parts of the Empire. It does away with the expense of holding these by-elections, and ensures that the selection of members to fill Cabinet positions need not be hampered by any consideration other than that of the public interest. Formerly a Premier in the selection of his associates had to consider whether or not the person to be selected represented a " safe " seat.

Dairy Products Sales Adjustment.—Act c. 20 makes provision for a committee to ascertain the standard price of milk and of manufactured milk products in a defined district, and to spread the difference in price between the fluid milk sold and that used in the manufacture of milk products in such a manner as to equalize the price to all dairy-farmers throughout the district, irrespective of the form in which their milk was marketed.

Escheats.—An amendment (c. 23) to the Escheats Act applies its provisions to equitable estates as well as to legal estates.

Mineral Survey and Development.—C. 39 is a re-enactment of the

Mineral Survey and Development Act of 1917, the principal change being to enlarge the powers of the Minister of Mines and his department in protecting investors from unscrupulous mining promotions.

Moving Pictures.—An amendment (c. 45) gives the censor of moving pictures power to suppress indecent advertising with respect to film shows.

Succession Duty.—Amendments (c. 57) provide for the total exemption from duty of estate moneys, to the extent of $20,000, going to the widow and family of a deceased. The amendments enacted by the Legislature in 1927 subjecting all life insurance policies to succession duty were repealed.

Teachers' Pensions.—An Act (c. 62) was passed providing a system of pensions for teachers in the public schools of the Province. A fund is to be established for the payment of pensions consisting of contributions deducted monthly from the salaries of teachers. For the first ten years the Province has undertaken to make an annual grant of $25,000 to the fund. The payments heretofore made by the Province to certain aged teachers will hereafter be paid from the fund established under this Act.

Water.—Amendments (c. 67) to the Water Act (along the lines of public utilities legislation) vest in the Water Board certain additional control over the operations of hydro-electric power companies, enabling the Board to hear complaints, and to compel extensions of service to consumers, and to fix rates and tolls fair to both the power company and the consumers.

4. MANITOBA.

[*Contributed by* R. M. FISHER, ESQ., K.C., *Legislative Counsel.*]

Administration of Justice.—The County Courts Act is amended (c. 11) by abolishing the sworn dispute note and substituting therefor a statement of defence. The provisions for examination for discovery are amended to permit of service of the order upon the solicitor of the party to be examined and examinations for discovery may now be made before special examiners in the County Courts of Portage la Prairie, St. Boniface, Dauphin, Minnedosa and Morden. Provision is made for signing default judgment where no defence is filed to a counter claim. The sections dealing with certificates of judgments are repealed and re-enacted in the Judgments Act. Any moneys attached and paid into court under a garnishing order and summons issued when the suit is being commenced may at any time after the expiration of six days from the signing of judgment against the defendant be paid to the judgment creditor without a judge's order.

The King's Bench Act is amended (c. 12) to permit local judges to grant interlocutory injunctions for a period not exceeding fifteen days instead of eight.

The Judgments Act is amended (c. 30) by incorporating the sections of the County Courts Act dealing with certificates of judgment into the Judgments Act and to provide that certificates registered under a re-sued judgment shall be entitled to the same priority as certificates registered under the original judgment.

The Securities Fraud Prevention Act is re-enacted (c. 48) for the purpose of bringing its phraseology more in uniformity with similar Acts in other provinces, and the Act of 1928 is repealed.

The Executions Act is amended (c. 21) to clarify the provisions relating to the exemptions from seizure of necessary food for the judgment debtor and his family for eleven months.

The Distress Act is amended (cc. 15 and 16) to provide that on every copy of demand there shall be printed or stamped in conspicuous type and in red ink a copy of ss. 5A, 5B and Schedule A of the Act, being the statutory exemptions and tariff of fees, and to provide that where a tenant has made an authorized assignment or has had a receiving order made against him the assignee or trustee in the distribution of his property shall first pay wages and salaries of clerks and servants in respect of services rendered to the tenant during three months before the date of the assignment or receiving order.

Dairies.—The Dairy Act is amended (c. 13) to provide that during the currency of a licence authorizing any person to act as a factory cheese maker, creamery butter maker or operator of a skimming station the Minister may grant a written permit to the licensee to forward any cream or milk purchased from patrons at such cheese factory, creamery or skimming station to another licensed creamery to be manufactured or resold.

Bees.—An Act for the Suppression of Foul Brood among Bees is amended (c. 2) to empower the inspector where he is satisfied that foul brood exists in its virulent or malignant type to destroy by fire the contents of all hives and all tainted appurtenances.

Assessment.—The definition of "land" in the Assessment Act is altered (c. 67) by repealing the words added thereto by c. 74 of the Statutes of 1927. The exemption from taxation of churches is limited to two acres of land and buildings used as churches or Sunday schools erected on such land but does not include manses or rectories. The council by by-law may provide that the assessment roll and tax roll may consist of sheets or cards. It is also provided that in case the value at which any land has been assessed by the assessor is less or more than its full value the amount shall not be varied by the judge on appeal if the value at which such land has been assessed bears a fair and just proportion to the value at which other lands in the municipality are assessed. The provisions respecting the penalties for failure to pay taxes are also amended (c. 68).

Bills of Sale.—C. 3, prepared last year by the Conference of Commissioners on Uniformity of Legislation in Canada, was passed to come into force on proclamation and the present Bills of Sale and Chattel Mortgage Act is repealed. Under the new Act renewal statements are required to be registered every three years instead of every two.

Assignment of Book Debts.—C. 1, also prepared last year by the Conference of Commissioners on Uniformity of Legislation, was passed to come into force on proclamation. Renewal statements are not required to be filed under this Act.

Companies.—The Companies Act is amended by c. 7 to provide that mortgages of personal property and assignments of book debts, whether specific or floating, created by any corporation and contained in a mortgage, charge, encumbrance or trust deed or in any bonds, debentures or debenture stock, whether secured by mortgage, charge, encumbrance or trust deed or not, shall be registered in the office of the Provincial Secretary. Registration of floating charges not secured by trust deed is to be effected by filing an affidavit setting out the particulars required by

the statute, and registration of other mortgages, charges and assignments is to be effected by filing a copy of the instrument together with an affidavit of bona fides. These registrations do not require to be renewed. The Act comes into force on proclamation.

The Act is also amended (c. 8) by adding to the ancillary and incidental powers set out in s. 17A the following powers :

" To issue and allot fully paid up shares of the capital stock of the company in payment or part payment of any real or personal property purchased or acquired by the company " ;

" To invest and deal with the moneys of the company not immediately required in such manner as may from time to time be determined " ;

" To distribute among the shareholders of the company in kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property or assets of the company or any proceeds of the sale or disposal of any property of the company, and in particular any shares, bonds, debentures, debenture stock or other securities of or in any other company belonging to this company, or which it may have power to dispose of " ;

" To pay out of the funds of the company all or any of the expenses of or incidental to the formation and organization thereof, or which the company may consider to be preliminary " ;

" To establish agencies and branches."

The said Act is also amended to provide that mining companies whose capital stock is divided into shares without nominal or par value or into shares of a par value not exceeding $5 may by by-law require a transfer fee not exceeding 25 cents to be paid before allowing the entry into the share register of any transfer of stock. S. 73 of said Act, providing that when by-laws for creation and issue of preference shares impose certain limitations and restrictions on rights of holders of preference shares that such limitations and restrictions shall be fully set out in the share certificate, is amended to provide that when such limitations and restrictions are set out in the letters patent of a company it shall not be necessary to set them out in the share certificate.

Municipal and Public Utility Board.—This Act is amended by c. 36 to empower the Board to make regulations respecting the accounts to be kept by local authorities, the methods of keeping the same and the audit thereof, and where the Board authorizes the exchange of parcels of lands in connexion with the cancellation of plans it may make orders for a period not exceeding five years in respect of the assessment of the land which the owner has received in exchange. The Board is empowered to deal with subdivision plans containing ten lots or less. The procedure is outlined for the approval of the Board as to subdivision plans. The Board is also empowered to permit a public utility operated for the production and distribution of electric heat, light and power to extend its transmission lines through a municipality by giving it permission to use the public highways and streets. The Board is also given jurisdiction over the tolls to be charged by motor buses. Part IV of the Act relating to the regulation of sale of shares and other securities on proclamation of the Lieutenant-Governor is repealed. The Board is also empowered to perform duties assigned to it as an appellate or arbitrating body under a municipal by-law.

Drainage.—The Land Drainage Act is amended by c. 17 to require every owner or occupant of land bordering on a drainage ditch to seed

down and keep seeded down a strip of land of not less than 75 feet on the side of the ditch on which there is no dump to suitable grass or fodder crop or to erect and keep erected a dyke of at least 15 inches in height to prevent land drifting into such ditch. If the owner or occupant fails, the municipality shall enter upon land and seed down and keep seeded down such strip. A penalty not exceeding $100, or in default, imprisonment for a term not exceeding one month, is provided for contravention of any of the said provisions.

Education.—The Public Schools Act is amended (c. 44) to provide a summary method of collecting school taxes in unorganized territory. S. 133, dealing with equalization of assessments in union school districts, is amended by deleting the amendment made in 1928 and restoring the section as it stood before the 1928 amendment. Boards of school trustees are also empowered with the consent of the municipal council to require such municipal council annually for a period not exceeding six years to levy and collect over and above the current requirements of such school board an amount not exceeding 10 per cent. of such annual current requirement for the purpose of enabling the school board to create a reserve fund for current expenditures. Town and village school boards are also empowered to grant leave of absence to any teacher or officer and to make him an allowance per month during such leave of absence. The said Act was also amended (c. 45) to provide that all school loans secured by debentures shall require the approval of the Municipal and Public Utility Board instead of the assent of the Department of Education. This provision comes into force on proclamation.

The School Attendance Act is amended (c. 47) to provide for a statutory form of certificate of non-attendance which shall be *prima facie* evidence of all matters stated therein.

The University Amendment Act is amended (c. 56) to provide for the election by graduates to the council of the University of two representatives from theology and one representative from home economics and architecture.

Elections.—The Manitoba Election Act is amended (c. 18) to provide that if a by-election is held in any electoral division other than Winnipeg the persons entitled to vote shall be (1) any elector whose name appears on the list of electors for the electoral division and who has not lost his or her residence therein by reason of having removed therefrom prior to the three months immediately preceding the date of any such election and (2) any person not otherwise disqualified whose name is not on such list of electors, who is of the full age of 21 years, is a British subject by birth or naturalization, has resided within the province for one year and within the electoral division for the three months last preceding the polling day if he or she takes the statutory oath and is vouched for under oath by an elector whose name appears upon such list of electors and who is a resident in the polling division.

Finance.—The Provincial Savings Act is amended (c. 39) to provide that the Lieutenant-Governor in Council may enter into agreements with depositors as to the sufficiency of discharges for payment of such deposits and certain sections were added to the Act relieving the trustees of responsibility in connexion with moneys deposited in trust, except where they have notice of lawful claims before repayment. Garnishing or attaching orders are to be served upon the manager of an office for receiving deposits and only bind money of the debtor at such office. Provision

is also made for redemption of saving certificates before their due date, but when so redeemed either no interest will be paid or interest at the rate for ordinary demand deposits.

Public Health.—The law relating to the control of tuberculosis was consolidated in an Act called the Tuberculosis Control Act (c. 55). The management of the Sanatorium at Ninette and the new institution to be established is given to the Sanatorium Board of Manitoba, being the new name of the Board of Trustees of the Manitoba Sanatorium. The board is empowered to enter into agreement with other institutions and to establish such sanatoria, clinics and other institutions necessary to prevent or minimize the development and spread of tuberculosis in Manitoba. Other provisions deal with election and appointment of members of board and the provisions providing for government and municipal aid. C. 176, R.S.M. 1913 ; c. 37, S.M. 1928 and sub-s. (2) of s. 13 of the Municipal Commissioner's Act enacted by s. 1, c. 82, S.M. 1928 are repealed.

The Public Health Act is amended (c. 40) to provide that the salaries and expenses of the Board of Health and its officers and employees shall be paid out of the Consolidated Revenue Fund from moneys appropriated therefrom by the Legislature. All moneys received from levies by the Municipal Commissioner for purposes of the Board are to be paid into Consolidated Revenue. The said Act is further amended (c. 41) to permit the Minister to prepare a scheme for the organization of full-time health districts consisting of a number of municipalities having an aggregate population of at least 10,000. The scheme shall provide for appointment of a district board of health with a medical, clerical and sanitary staff, who shall devote their whole time to the promotion of health and sanitation in the district, one-half of the expense to be paid by the municipalities and the other half to be paid by the Department of Health and Public Welfare out of funds placed at its disposal for that purpose. By a further amendment (c. 42) to said Act the Board of Health is empowered to order the vaccination against smallpox and inoculation against typhoid of all employees in lumbering, wood-cutting, timber, mining or construction camps, and any person refusing to comply with such an order shall be discharged from his employment. The section does not apply to members of the running trades or telegraphers or persons treating human ailments by prayer or spiritual means as an exercise of religious freedom. Conscientious objectors are also excepted if they file an affidavit, but are subject to isolation for four weeks.

Private Hospitals.—C. 25 provides for the inspection and licensing by the Minister of Health and Public Welfare of every building in which four or more patients are received at the same time for medical or surgical treatment or for care and treatment in or in respect of child-birth.

Child Welfare.—This Act is amended (c. 6) by widening the definition of " neglected child " to include any child whose parents have not been legally married to each other and whose mother refuses to maintain such child. Municipalities to which the neglected child is alleged to belong are required to be notified of the investigation before the juvenile court or police magistrate. No child under the age of 12 years can now be sent to an industrial school. Certificates of adoption shall be made in triplicate, one copy filed in court, one delivered to the adopting parents and one sent to the recorder of vital statistics. Paragraphs (*a*), (*b*) and (*d*) of s. 176 are amended by increasing the age from 16 to 18 years. The owners of places of amusement must take out a permit to

employ a juvenile performer, the fee being fixed at $20 per annum. Where a child has been committed to a society or the director under s. 184 and a maintenance order has been made and the child is subsequently admitted to a hospital the municipal responsibility for hospital charges is determined by the definition of " residence " in the Child Welfare Act and not the Hospital Aid Act. Municipalities are given the right to file liens against lands of parent or child when the municipality has paid maintenance. After a judge has made a maintenance order, if it appears that another municipality is liable he is empowered to make a further order directing that such other municipality reimburse the first municipality and make further payments under the order. The judge is also empowered to make renewal commitment or maintenance orders.

Municipalities.—The Municipal Act is amended (c. 65) to permit the council of an incorporated town to engage a salaried physician. The said Act is also amended (c. 61) to authorize municipalities to borrow for the purpose of making additions or improvements to hospitals. The section in the said Act empowering councils to erect skating and curling rinks is amended (c. 64) to empower the council to determine what real property will be immediately benefited by the erection of such rinks and to determine what proportions of the total cost of erecting such rinks shall be borne by the respective properties concerned. The power to exempt manufacturing industries from taxation up to 60 per cent. of assessed value without submission to ratepayers is extended to include (c. 63) rehabilitated industries. Municipalities are empowered (c. 66) to pass by-laws regulating flowing wells and empowered to remove trees from private property where they interfere with an unobstructed view of a level railway crossing by traffic on the highway. Members of committees for unincorporated village districts are prohibited (c. 62) from being interested in any contract or dealings with such unincorporated village districts and penalties are provided for infractions. The form of declaration of candidate is amended (c. 60) and the proviso to s. 79 that no one person shall nominate more candidates for any particular office than are required, and that a sitting alderman or councillor must resign two weeks before nomination day to be eligible for nomination, were repealed.

Public Utilities.—The Electrical Power Transmission Act is amended (c. 19) by substituting " the Minister of Mines and Natural Resources " for " the Minister of Public Works " and to provide that all moneys received by the Province after May 1, 1929, as rentals for water-powers either from the Dominion Government or from lessees of water-powers shall be credited to an Electrical Power Transmission Extension Account and upon the recommendation of the Minister and the Manitoba Power Commission, and the approval of the Lieutenant-Governor in Council, there may be paid out of such moneys as a bonus to hydro development the interest and sinking fund charges on an amount not exceeding 50 per cent. of the capital cost of constructing electrical power transmission lines either heretofore or hereafter erected. Where any customer is indebted to the Province, such amount may be applied on the outstanding account. Until such time as there is a credit in such account the Lieutenant-Governor in Council may borrow the moneys necessary to make such payments.

Succession Duties.—This Act is amended (c. 50) to provide that the Provincial Treasurer may require evidence to satisfy him that provincial tax-free bonds held by an estate were *bona fide* acquired, and if the Pro-

vincial Treasurer is not so satisfied such bonds shall be liable to succession duty. It is further provided that in determining aggregate or dutiable value no allowance shall be made for any debt created by the deceased, the proceeds of which were used by the deceased in purchasing or otherwise acquiring tax-free bonds.

5. NEW BRUNSWICK.

[*Contributed by* M. B. DIXON, ESQ., K.C.]

Acts passed—117; Public—57; Private—60.

Appropriation.—Act No. 1 provides $1,665,192.50 for civil government, and No. 2, $1,212,564.16 for roads and bridges and public works.

Motor Vehicles.—C. 26 amends the Motor Vehicle Act, and provides for the issue of registration plates and certificates; licences to dealers; licences for garages; licences to chauffeurs; licences to non-residents of the Province. Regulations are made as to the rate of speed, the use of lights, etc., and penalties are fixed for any breach of the provisions of the Act.

Marriage.—C. 36 amending the Act relating to the Solemnization of Marriage provides for not less than five days' notice of intended marriage to be given, and also provides that a statutory declaration of an independent party is to be made before the licence is issued.

Public Libraries.—C. 56 provides for the establishment of public libraries, and also provides for the appointment of a Commission and sets out the duties of such Commission. The Board of Management may make rules and regulations.

Museum.—C. 53 provides for the incorporation of a provincial museum. It provides for the appointment of a Board of Museum, and an Executive Committee is appointed. Certain properties are vested in the Board, and the Board may acquire a site for the building. It is also provided that the custody of public records may be transferred to the Board, and also that the Natural History Society may transfer its property to the Board.

The remainder of the Acts passed at this session are of minor importance and chiefly slight amendments to other Acts.

6. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., *Deputy Attorney-General.*]

Public Archives.—C. 1 incorporates the Board of Trustees of Public Archives of Nova Scotia and authorizes the erection and maintenance of a Public Archives building and the preservation therein of the public archives of the Province.

Plebiscite.—C. 2 is in respect of a plebiscite on the question of the retention of the present Nova Scotia Temperance Act and the institution of a system of government control of the sale of liquor.

Constitution.—C. 13 is an Act to amend c. 2, Revised Statutes, 1923, "Of the Constitution, Powers and Privileges of the Houses," and alters the present constitution of the House of Assembly to thirty-eight members and divides the County of Cape Breton for electoral purposes. This Act is not to take effect before the dissolution of the present House, except that, in constituencies at present having two members which

under the Act will in future have one, if one vacancy only in the constituency occurs, it shall not be filled.

Mines.—C. 22, amending c. 22, Revised Statutes, 1923, mainly deals with mining royalties and conditions and requirements applicable to mining leases.

Collection.—C. 55, amending c. 232 of the Revised Statutes, 1923, takes away the former powers of an examiner under the Collection Act to commit a debtor to jail. It creates a new class of functionaries called Special Examiners, and a Special Examiner has the power to commit to jail after rehearing, on a debtor being brought before him by order of an examiner or if a debtor be brought before him for default in making payments ordered by an examiner.

Teachers' Pensions.—C. 62, amending c. 6 of 1928, allows, under certain conditions, time spent in teaching in other parts of the British Commonwealth to be regarded for pension purposes as time spent in teaching in Nova Scotia.

7. ONTARIO.

[*Contributed by* JOHN D. FALCONBRIDGE, ESQ., K.C., *Dean, Osgoode Hall Law School, Toronto.*]

Acts passed—137; Public—88; Private—49.

The third session of the seventeenth legislature of Ontario began on January 30, and ended on March 28, 1929.

Soldiers' Aid.—C. 4 is an Act to extend the powers of the Soldiers' Aid Commission, originally established by Order in Council in 1915, and to amend and consolidate the statutes subsequently passed with regard to it.

Political Contributions.—In substitution for an Act originally passed in 1927, it is enacted by the Political Contributions Act (c. 6):

> No unincorporated company or association and no incorporated company or association other than one incorporated for political purposes alone shall, directly or indirectly, contribute, loan, advance, pay or promise or offer to pay any money or its equivalent to, or for, or in aid of any candidate at an election, or to, or for, or in aid of any political party, committee or association, or to, or for, or in aid of any company incorporated for political purposes, or to, or for, or in furtherance of any political purpose whatever, or for the indemnification or reimbursement of any person for moneys so used.

An infraction of the Act by any director, shareholder, officer, attorney or agent, etc., is defined as a corrupt practice within the meaning of the Election Act, and is punishable by fine and imprisonment.

Natural Resources.—The Pulpwood Conservation Act (c. 13) provides for a survey of the supply of pulpwood in the Province, and for the devising of a plan for placing its supply on a sustained yield basis so that the consumption of pulpwood shall not exceed the production in any year, and the industry shall have an assured source of supply for the future.

The Provincial Forests Act (c. 14) provides for setting apart eight specified tracts of land, totalling nearly 9,000 square miles, as provincial forests, no part of which is to be sold, leased or otherwise disposed of for the purposes of agricultural settlement. The Act provides for the appointment of a forester, who, under the direction of the Minister of

Lands and Forests, is to have charge of these forests, it being his duty to preserve the forests according to the best forestry practice and gradually to place them on a sustained yield basis.

Reciprocal Enforcement of Judgments.—The Reciprocal Enforcement of Judgments Act (c. 29) is one of the uniform statutes prepared by the Conference of Commissioners on Uniformity of Legislation in Canada which has already been adopted in some of the other provinces of Canada (Saskatchewan in 1924, Alberta, British Columbia and New Brunswick in 1925). The statute was prepared by the Conference of Commissioners in 1924, and provides for the registration in one province of a judgment obtained in another province, provided the uniform Act has been adopted in both provinces.

Bank Books as Evidence.—The Evidence Act (c. 33) is in effect the same as the Bankers' Books Evidence Act, 1879, enacted by the British Parliament. A similar statute was passed by the Parliament of Canada in 1927 [1], and statutes to the same effect have been passed in some of the other provinces.

Investigation of Titles.—The Investigation of Titles Act (c. 41) has as its praiseworthy object the shortening of the chain of title which must be searched by a purchaser or mortgagee of land in Ontario. All land in Ontario, after grant from the Crown, is entered on the register either in a registry office or in a land titles office. The land titles system (based on the English Land Transfer Act, 1875) is excepted from the operation of the statute now in question. The statute allows a period of one year (from June 1, 1929, to June 1, 1930) during which any person having an existing "claim" more than forty years old may register notice of the claim, verified by affidavit. The statute then provides that from and after June 1, 1930:

> No person in dealing with land shall be required to show that he is lawfully entitled to such land as owner thereof through a good and sufficient chain of title, save and except during the period of forty years immediately preceding the date of such dealing as aforesaid, and no claim which has been in existence longer than the said forty-year period shall affect such land, unless such claim shall have been acknowledged or specifically referred to or contained in an instrument registered against such land within the said forty-year period, or unless a notice is registered against such land as provided in subsections 3, 4 and 5 hereof.

The subsections mentioned provide in effect that if a claim is registered within the forty-year period, the registration is notice of the claim for a further period of forty years. If a claim has expired by reason of more than forty years having elapsed without registration of notice, a notice may nevertheless be registered provided there has been no intermediate registered dealing with the land. A "claim" is defined as including "any right, title, interest, claim or demand of any kind or nature whatsoever set forth in, based upon or arising out of a registered instrument," but not including any "unregistered right of way or other easement or right which any person is openly enjoying and using." The statute is subject to some exceptions, including an obscure but seemingly important one in favour of a person who is "continuously shown" on the books of a registry office as the owner of a freehold or leasehold estate or of an equity of redemption therein. The statute takes effect "notwithstanding any statute or any rule made under the authority

[1] See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. ii, p. 35.

of a statute or any rule of law." In effect, it is a new statute of limitations relating to land, and its language suggests many questions of construction—some of which will doubtless be answered by amending legislation from time to time.

Registration of Deeds.—An amendment of the Registry Act (c. 43) is intended further to facilitate the investigation of titles. It provides for the elimination from the abstract of title in the registry office of effete instruments not forming links in the chain of title, as, for example, mortgages of which discharges have been registered, claims of mechanics' liens which have been discharged or have expired, certificates of *lis pendens* which have been vacated, etc.

Dependents' Relief.—The Dependents' Relief Act (c. 47) makes an important change in the law, and in effect deprives a person of a portion of the complete power of testamentary disposition which (apart from dower) he has hitherto enjoyed. The statute defines "dependent" as the wife or husband of a testator, a child under the age of sixteen years, and a child over that age who through illness or infirmity is unable to earn a livelihood; and provides:

> Where it is made to appear to a judge of the surrogate court of the county or district in which a testator was domiciled at the time of death that such testator has by will so disposed of real or personal property that adequate provision has not been made for the future maintenance of his dependents or any of them, the judge may make an order charging the whole or any portion of the estate in such proportion and in such manner as to him may seem proper, with payment of an allowance sufficient to provide such maintenance.

The application for an allowance is to be made in chambers upon an originating notice, and at any time before the hearing of the application a judge of the Supreme Court of Ontario, if the total value of the estate exceeds $10,000, may direct that the application be heard by a judge of the Supreme Court, and the matter shall be transferred accordingly into the Supreme Court. In any event an appeal lies to the Appellate Division, which may annul the order or increase or reduce the amount of the allowance.

Upon the hearing of an application the judge shall inquire into and consider the circumstances of the testator at the time of death, the circumstances of the applicant, the claims which any other person may have as a dependent of the testator, any provision which the testator may have made *inter vivos* for dependents or any dependent, any services rendered by dependents to the testator, any sum of money or any property provided by a dependent for the purpose of providing a home or assisting in any business or occupation or for maintenance or medical or hospital expenses, and generally any other matters which the judge deems should be fairly taken into account in deciding upon the application.

So far as an allowance is made to a dependent in respect of personal assistance given or in respect of a loan or gift made towards the advancement of the testator in any business or occupation, the dependent may rank as a creditor, but subject to this exception all allowances made under the Act are postponed to the claims of creditors. The allowance to any dependent is not to exceed the amount to which that dependent would have been entitled if the testator had died intestate, and the total of all allowances made is not to exceed one-half of the estate after the

payment of debts, funeral and testamentary expenses and succession duty.

Prevention of Frauds in Connexion with the Sale of Securities.—The Security Frauds Prevention Act (c. 51) amends and supplements the Act of 1928 [1] by providing for the appointment of auditors charged and empowered to audit the business and affairs of such persons or companies as may be allotted to them respectively by the executive committee of any stock exchange in Ontario, of which such persons or companies are members or on which they are represented.

Extra-Provincial Corporations.—The Extra-Provincial Corporations Act (c. 52) amends the principal Act (which requires extra-provincial corporations to obtain a licence in Ontario as a condition of carrying on business there) by providing as follows:

> Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated in Ontario from the provisions of any Act corresponding with the provisions of this Act, the Lieutenant-Governor in Council may exempt any corporation incorporated under the law of such other province from the provisions of this Act or any of them.

Old Age Pensions.—The Old Age Pensions Act (c. 73) makes provision for the payment of old age pensions, and provides, *inter alia*:

> The Lieutenant-Governor in Council may enter into an agreement with the Governor-General in Council as to a general scheme of old age pensions in the Province pursuant to the provisions of any Act of the Dominion [2] heretofore or hereafter passed relating to old age pensions, and the regulations made thereunder, and for the payment by the Dominion to the Province quarterly of an amount equal to one-half of the net sum paid out during the preceding quarter by the Province for old age pensions pursuant to the provisions of this Act.

Hotels.—The Hotels Act (c. 75) amends and consolidates earlier Acts relating to hotels. The Act modifies the common law liability of innkeepers for loss of or injury to the goods of guests, and extends to boarding-house keepers and lodging-house keepers the innkeeper's lien for the value or price of food or accommodation furnished by them.

Ontario Research Foundation.—The Research Foundation Act (c. 86) increases to $2,500,000 the amount of subscriptions which may be received from private individuals, and the Treasurer of Ontario is authorized to pay to the Foundation every six months a sum equivalent to the amount subscribed.

8. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Acts passed—36; Public—20; Private—16.

Public Utilities.—By c. 7 a Board of Commissioners of Public Utilities is constituted with power to supervise public utilities, to make examinations and inquiries and keep itself informed as to the compliance by public utilities with the provisions of the Act. On complaint being made, the Board may, after due investigation, order rates, tolls, charges or schedules to be reduced, increased, modified or altered, and may make such other

[1] See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. ii, p. 79.

[2] See *Journal of Comparative Legislation*, Third Series, vol. xii, pt. ii, p. 37, for an account of the Dominion Old Age Pensions Act, 1927.

order as to the change of any regulation, measurement, practice or act as justice may require, and may require that the public utility furnish reasonably adequate services and facilities, subject to such conditions as are just. The expenses of the Board may be assessed, levied and paid by the several public utilities.

Duties are prescribed for public utilities which are to make annual returns to the Board. Appeals from the orders of the Board may be taken to the Supreme Court.

Security Frauds Prevention.—C. 8, for the prevention of frauds in connexion with the sale of securities, requires registration of brokers and salesmen, the filing of a bond and compliance with certain regulations before engaging in the business of trading in securities. The Attorney-General may investigate the acts of such brokers and salesmen, suspend registrations and give notice to the public of fraudulent acts. Upon his application, the Supreme Court may, after due proof of fraudulent acts, enjoin such brokers, companies or salesmen from trading in securities, or from committing specific fraudulent acts or series of fraudulent acts.

Plebiscite.—By c. 15 provision is made for a plebiscite on questions relating to the suppression or control of traffic in intoxicating liquor, the vote to be taken on a day in July 1929, to be fixed by the Lieutenant-Governor in Council.

Venereal Diseases.—By c. 16 it is enacted that whenever any person is under arrest or in custody charged with an offence against the Criminal Code of Canada or against any statute of Prince Edward Island or any by-law, regulation or order made under the authority thereof, or has been committed to jail, reformatory or other place of detention upon conviction of such offence, and the medical officer of the Board of Health for the district believes such person is or may be infected with, or has been exposed to infection from, venereal disease, the medical officer may cause the person to undergo such physical examination as may be necessary, or as may be prescribed by the regulations, in order to ascertain whether or not the person is infected with venereal disease.

If upon examination it is found that the person examined is so infected, the medical officer shall give such directions for the treatment of the patient and, if necessary, for his detention and isolation and the prevention of infection from him as may be proper and authorized by the regulations. Jail physicians are to report suspected jail inmates to the medical officer of health. Advertising cures for venereal disease is punishable by fine or imprisonment.

Contagious Diseases among Foxes.—For the purpose of preventing the spread of contagious diseases among foxes and other animals, the Lieutenant-Governor in Council is authorized, by c. 17, to prohibit the importation into the Province of any animal or animals, either generally or from any place or places named, for such period of time as may be deemed necessary. Disobedience to the order or regulations made under the Act is punishable by fine or imprisonment.

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Number of Acts passed—156; Public—94; Private—62.

Grants to Promote Education.—The following sums are appropriated: to the education in agriculture, the improving of agricultural schools,

the establishment of new offices for agriculturists, the organizing of short courses in agriculture and other educational and demonstrating purposes, $500,000 ; to aid in the establishment of Montreal University and the reconstruction of its buildings, $1,000,000 ; to McGill University in respect of the training of teachers, $25,000 ; to the Cistercian Fathers, for purposes of colonization and agriculture, two thousand acres of land in the county of Gaspé.

Plant Protection.—By c. 25 it is forbidden to any person to carry on the occupation of nurseryman in the Province without having obtained previously a permit from the entomologist of the Department of Agriculture. The latter has the right to enter any nursery, garden, orchard, field or other premises, wherein there is reason to believe that there are plants of any kind. Between the first of June and the first of October of each year, he visits every nursery for which a permit has been granted, and if the inspection is satisfactory, he delivers to the owner a certificate, valid for a year. He is authorized, during his inspection, to make an inventory of the plants raised in each nursery. He gives instructions for the treatment, removal or destruction of any plant deemed to be attacked by destructive insects. Every nursery product entering the Province from another part of Canada must have a certificate of fumigation or a certificate establishing that such product is free from the following insects and plant diseases, to wit, the brown-tail moth, the gipsy moth, the woolly aphis, the San José scale, black knot, white pine blister rust, European currant rust, European corn borer, apple tree borer, apple black canker, European apple canker, apple blight, plum pocket, satin moth, Japanese beetle, Mexican bean beetle. Such diseased plants and destructive insects may, however, with the permission of the Minister of Agriculture, be imported for scientific purposes. Persons operating nurseries are forbidden to sell, give or deliver or allow to go out of their nursery any plant or vegetable matter, unless they have received the entomologist's certificate. No parcel containing nursery products may be accepted for shipment unless it bears an official copy of the entomologist's certificate and a statement of the quantity and nature of the contents, under pain of confiscation and loss to the vendor. Vendors of nursery products must obtain permits from the entomologist, which expire on December 31 of each year. Disobedience to the provisions of the Act may be punished by fines and imprisonment.

Mining.—By c. 26 every holder of a claim must, within a delay of twelve months from the date marked on the stakes, obtain a mining licence in accordance, on pain of forfeiture of all rights and privileges. The delay is extended by twelve months for claims situate one hundred miles or over from a railway. Every inspector, geologist, constable or peace officer may, at any time, enter, with assistants, upon any private or public land in order to carry out his work therein, and may require from the claim-holder, licensee or owner of the land all the facilities and assistance necessary for that purpose. The Minister of Mines may create, in the mines branch, a geological and mineralogical body whose duties shall be to make explorations in and study of the ground in order to draw up geological and mineralogical surveys, and to publish geological and mineralogical maps in order to make public the results of such work.

Fisheries.—By c. 27 the Minister of Colonization, Mines and Fisheries may withdraw, from a fishing lease already granted to a person or to a club, the land required for hydraulic development or for other industrial

purposes. The compensation payable to the lessee by the company or individual who applies for such withdrawal of land shall be fixed by mutual agreement between the interested parties, and, if not so fixed, must be determined, definitely and without appeal, by the Quebec Public Service Commission, upon the petition of an interested party.

By c. 28 no person may construct or maintain a dam, barrage, gate-locks or other obstruction across a river or stream, or at the entrance or discharge of a lake, unless such obstruction is provided with a fishway or fish ladder, at the place, of the type and of the capacity approved of by the Minister in writing, under pain of a penalty of $25 per day. In obstructions already existing, fishways or fish ladders must be placed not later than April 1, 1931. The Minister may have the fishway or fish ladder erected after such date, or repaired when defective and a notice to repair has not been complied with, and recover the costs from the owner or possessor of the obstruction. The obligation to erect and maintain a fishway or fish ladder may be dispensed with by the Minister.

Game Laws.—By c. 29 no person owning, having or harbouring any dog accustomed to hunt or pursue deer shall allow such dog to run at large, hunt or course in any place frequented by deer, under penalty of a fine of not less than $5 nor more than $25. Any person may, without incurring any liability, kill any such dog found so unlawfully running at large, hunting or coursing in any such locality.

By s. 3 the provision of c. 27 is extended to hunting leases.

Radio Broadcasting.—By c. 31 the Cabinet may cause a radio broadcasting station to be erected on the site which it may choose and in accordance with the plans and specifications approved by it, the cost of such station not to exceed $200,000. It is authorized to acquire, for the purpose of such station, by agreement or by expropriation under the Railway Act, all the real property or rights required for such station. It may enter into agreements with persons operating broadcasting stations, and engage artists, lecturers, orators or others as it may deem expedient to broadcast words or music.

Roads.—By c. 32 the Minister of Roads may enter into agreements with any person who maintains wires on poles along the roads with respect to the maintenance, trimming, removal or replacing of trees growing near such poles and wires. Whenever the Minister cannot agree with such person as to the contribution payable by the latter, the Quebec Public Service Commission may, at his request, determine such contribution. An amount of $17,000,000 is specially appropriated to carry out the programme of resurfacing within a period of six years.

Public Works.—By c. 33 the Minister of Public Works may, at any time, order the execution of the works which he may deem necessary for the maintenance, repair, alteration, changing, displacing and rebuilding of any municipal bridge, the span whereof exceeds twenty feet, as well as the roads leading to such bridge, and, if the work so ordered be not executed by the proper municipality or municipalities within the time prescribed by the Minister, the latter may, if he deem it advisable, have the same executed and exact payment by ordinary suit in his own name.

Cities and Towns.—By c. 34, if the office of mayor become vacant, the town clerk must, within eight days after such vacancy, fix a day for the nomination of candidates as well as for the election in case of opposition, such election to take place within thirty days from the vacancy. However,

if the vacancy occur within the six months preceding the general election, the clerk of the municipality shall, within eight days after such vacancy, call a meeting of the council for the purpose of electing one of the aldermen to discharge the functions of mayor during the remainder of the term of office, and the council, at such meeting, shall make such election. The acceptance of the office of mayor shall have the effect of rendering the seat of the alderman, who accepts the office, vacant, and in such case a new election to fill such vacancy shall be held.

By s. 2 a council may make by-laws to open, enclose, improve and maintain, at the expense of the municipality, aerodromes or taking-off and landing fields for aeroplanes or airships within or without the limits of the municipality ; and to acquire or lease any land necessary or useful for such purpose ; and to enter into agreements with any person or company respecting the location, sale and working of the said aerodromes.

By c. 35 the Cabinet may amend a by-law submitted for its approval, at the request, expressed by a mere resolution of the council which passed the by-law, and without it being necessary to obtain the approval of the electors who are property owners, provided the amendments have not the effect of increasing the charges upon the ratepayers or of changing the object of the by-law.

By s. 410*l* whenever it is provided that a by-law must be approved by the Cabinet before having force and effect, the clerk of the corporation, after such by-law has been approved by the electors, shall transmit to the Minister of Municipal Affairs a certified copy of all such documents as may enlighten the Cabinet upon the fulfilment of the provisions of the law and upon the expediency of passing the by-law.

The Cabinet shall approve a by-law only after receiving the proof of the fulfilment of the formalities required for passing such by-law.

By s. 410*m* the Cabinet may require from the council which passed such by-law all documents and information which it deems necessary to assure itself of the expediency of the by-law or of some of its provisions.

By s. 410*n* the Cabinet may, when a by-law is submitted for its approval, approve such by-law only in part, on the recommendation of the Minister of Municipal Affairs.

By c. 36 any person, not being the debtor, who pays a tax with the debtor's consent is of right subrogated in the privileges of the municipality or the debtor's real and personal estate, provided the treasurer's receipt mentions that the payment was made by a third party for the debtor.

Animal-drawn Vehicle Lamps or Reflectors.—By c. 38 every municipal corporation may make by-laws to compel the owner of any animal-drawn vehicle, and any other person in charge thereof, to provide such vehicle, when it is on a public road in the municipality, between an hour after sunset and an hour before sunrise, either with a reflector placed so as to receive the rays of light from a motor vehicle coming up behind and to warn the person driving such motor vehicle of its presence, or with a lamp lit and placed so that the light it produces be seen by the driver of a motor vehicle approaching the animal-drawn vehicle.

Any by-law made by a municipal corporation under the authority of this section affects only the persons residing in the municipality governed by such corporation.

The penalty is from $10 to $100 for the first offence, and $25 to $200 for each subsequent offence, with thirty days' imprisonment in default of payment.

Poster Prohibition.—By c. 39 it is forbidden for any person, firm or corporation to display or cause to be displayed a poster on a provincial highway, a regional highway or generally on any road which the Minister of Roads maintains, or on any land or the exterior of any building where it may be seen by any person on such highway or road.

This provision shall not apply, however, if the poster is displayed within the limits of a city or town.

Every poster displayed contrary to the Act must be removed without delay by the person, firm or corporation having displayed it or caused it to be displayed, or by the owner of the land or building upon which it is displayed.

If such a poster be not so removed, it may be so done, after a notice of fifteen days to such person, firm or corporation and to such owner: (*a*) upon instructions from the Minister of Roads or any person authorized by him; or (*b*) by any person authorized thereto by the council of the municipality within whose limits the poster is displayed.

Railway Crossing Protection Municipal Contribution.—By c. 40 the council of any municipality, any law to the contrary notwithstanding, may pass by-laws providing for the contribution by such municipal corporation to the expense of safeguarding, whether by the erection and maintenance of gates, or the construction of tunnels or overhead bridges, or other like devices, the approaches to a railway which crosses on the level any public road which the municipality is interested in protecting within or outside of its boundaries within a radius of five miles; and may, for the purposes of such contribution, by the same or by another by-law, borrow money and issue the bonds or debentures of the corporation therefor.

Education.—By c. 44 a provision similar to that of c. 36 is enacted for school taxes paid by a third party.

Special Classes Education.—By c. 45 boards of school commissioners or school trustees in any school municipality in the Province of Quebec may establish and carry on in any of their school buildings special classes for retarded children or those who are unable to profit from the instruction given in the classes corresponding to their age, or who, from physical or other causes, require special attention.

Such special classes shall be carried on subject to the regulations made therefor by either Committee of the Council of Education, as the case may be.

The admission of children to such special classes shall be made by the principal of the school to which they are sent, upon the advice of the teachers identified with such special classes.

Any school board establishing such special classes may incur all such expense as may be necessary for the proper carrying on of same, as well as for the training of specialists and the appointment of a medical officer.

It shall be the duty of any such board to have its medical officer visit defective children in their homes when necessary, in order to advise the parents of the children with respect to the health and education of the pupils in the aforesaid special classes.

Subject to the approval of the Cabinet, either Committee of the Council of Education may, from time to time, provide for special courses of study for children attending special classes, established under this Act and regulations generally; for the establishment, government, examination

and inspection of such special classes, and for prescribing the accommodation and equipment of school rooms or buildings, and the arrangement of school premises for such special classes.

Juries.—By c. 53 officers, non-commissioned officers and privates of the permanent force of the Active Militia of Canada are added to the list of the persons exempt from service as grand or petit jurors.

Summary Convictions.—By c. 55 whenever a judge of the sessions, police magistrate or district magistrate who has heard a case is unable, on account of sickness, absence or any other reason, to deliver judgment himself, he may transmit his judgment in writing, duly certified by him, to the proper clerk, with instructions to register such judgment, and, on request, to disclose or communicate it to the parties or their attorneys, on the day fixed by him for the purpose.

The clerk, on receipt of such written judgment and of the instructions which accompany it, must comply with such instructions. The judgment thus registered shall have the same effect as if it were delivered by the judge of the sessions, police magistrate or district magistrate at the trial.

Penalty Remission.—By c. 56 every person sentenced to imprisonment for a breach of the laws of this Province or for infringement of the by-laws of any municipal corporation in this Province shall be entitled to earn a remission of a portion of the time for which he is sentenced, not exceeding five days for each month during which he is exemplary in behaviour, industry and faithfulness, and does not violate any of the prison rules ; and if prevented from labour by sickness, not intentionally produced by himself, he shall be entitled to earn, by good conduct, a remission, from the term of his sentence, of not more than two and one-half days for each such month.

Every such prisoner who commits any breach of the laws or of the prison regulations shall, besides any other penalty to which he is liable, be liable to forfeit the whole or any part of any remission which he has so earned.

Public Health.—By c. 59 no extension of any existing fox farm may be made, nor may any new fox farm be established in the cities and towns of the Province, without special permission from the Director of the Provincial Bureau of Health.

Maintenance of Public Charitable Institutions.—By c. 63 the Provincial Treasurer is authorized to pay annually a sum of $1,000,000 from the net revenue of the operations of the Quebec Liquor Commission, into the Public Charities' Fund.

Lunatic Asylum.—By c. 64, upon the application of the relatives, the husband or the wife, the judge of the place in which the insane prisoner is domiciled may, in chambers, appoint a provisional administrator of the property of any prisoner, not interdicted, who is placed in the Asylum for Insane Prisoners.

Such appointment shall not be made except upon the advice of a family council, and shall not be subject to appeal.

The provisional administrator shall have, over the person and property of the insane prisoner, all the powers, and shall be, as to his administration, subject to all the obligations of an ordinary curator.

The person appointed as provisional administrator must immediately make known his appointment, by registered letter addressed to the medical superintendent of the Asylum for Insane Prisoners.

If no provisional administrator has been appointed, or until he has been notified of the appointment of a provisional administrator pursuant to the provisions of s. 84A, the medical superintendent shall have, over the person and the property of such insane prisoner, all the powers of an ordinary curator. He shall, moreover, be subject to the instructions which may be given him from time to time by the Cabinet as to all property possessed by or belonging to such insane prisoner.

The powers conferred under ss. 84A and 84Q shall cease *pleno jure* so soon as the person so confined in the Asylum for Insane Prisoners is no longer therein confined, or when a curator is appointed under the provisions of the Civil Code.

Any law to the contrary notwithstanding, such municipality may, when the insane prisoner was not domiciled within its territory at the time of his arrest, exercise its recourse for repayment against the municipality in which he then had his domicile; but such recourse by any municipality shall be prescribed after three years from the date of the payment to the Government.

Cemetery Companies.—By c. 65 the Lieutenant-Governor may, by letters patent under the Great Seal, grant a charter to any number of persons, not less than three, not being trustees for a religious congregation or society, nor Roman Catholics, nor already by law incorporated, who petition to be incorporated for the purpose of establishing, maintaining and managing a cemetery.

Such letters patent shall constitute the applicants who signed the petition and the memorandum of agreement, and those who afterwards become members of the corporation created by the letters patent, a corporation without capital stock, for the objects above set forth and for no other purpose.

Before the granting of the letters patent, the petitioners must establish, to the satisfaction of the Provincial Secretary, the truth and sufficiency of the allegations of their petition and of their memorandum of agreement, their good faith and the absence of any objection on the ground of public interest; and the Provincial Secretary shall, for the above purposes, receive and preserve on file all necessary depositions in writing and on oath.

The corporation shall have the right to establish a cemetery, but the construction, maintenance and use of such cemetery shall be effected in accordance with the general laws concerning like matters. It may also, subject to the same general laws, change the site of the whole or part of such cemetery and enlarge it, provided that the total area shall never exceed 35 arpents.

The land upon which a cemetery is established under the provisions of this Act shall not be seizable. It shall also not be alienable save with the permission of the Cabinet to the transfer of the property.

Companies may also be incorporated to assume control of already existing cemeteries.

Architects.—By c. 67 the Council of the Association of Architects is given the power to grant to any architect residing outside of the Province of Quebec and being a member of an association of architects recognized by the Council, or a member of any other architects' society or corporation likewise recognized by the Council, a temporary licence to practise, upon payment of the fees provided for by the by-laws, on condition that the drafting of plans and management of the work be carried out

in collaboration with an architect who is a regular member in good standing of the Province of Quebec Association of Architects and domiciled in the Province of Quebec.

Forest Engineers.—By c. 68 no person shall practise or exercise, in the Province of Quebec, the profession of forest engineer within the meaning of s. 3, unless he is a member of the Association of Forest Engineers of the Province of Quebec, or becomes a member under the provisions of this Act, in connexion with any works required to comply with the laws, regulations and orders of the Cabinet in force.

No one acts contrary to the provisions of this Act when, without assuming the title of Forest Engineer and without doing work required for purposes of inventory or forest management, he carries out or causes to be carried out forest fire protection work or the work of laying out logging areas or of organizing lumbering therein, or exploration work required for that purpose, or other exploitation works from and including the felling of the trees.

Tree Protection.—By c. 71, notwithstanding any general or special law authorizing same, any person or any corporation constituted in this Province or elsewhere by any authority whatsoever, destroying or damaging, wholly or partly, a tree, sapling or shrub, or any underwood, wherever the same is growing, without having obtained, upon petition therefor served upon the interested parties, the authorization of the Quebec Public Service Commission, unless a consent has been previously given by the owner of such tree, sapling, shrub or underwood, shall be bound to pay to the owner of such tree, sapling, shrub or underwood, in addition to actual damages, exemplary damages in an amount not exceeding $25 for each such tree, sapling, shrub or underwood so wholly or partly destroyed or damaged.

The foregoing does not apply to trees or shrubs accidentally coming in contact with wires or apparatus of a public utility in a manner to endanger life or property or to interrupt service, nor to branches extending over a neighbour's property.

Press.—C. 72 provides that one who deems himself injured by a newspaper article must sue within three months from the publication of the article, or his knowledge of such publication, but in the latter case, within a year from such publication. Before suing, he must give a notice of three juridical days to the newspaper to rectify or retract the article complained of, and if the newspaper retracts in a conspicuous place of the paper, he can only claim real damages ; but if the newspaper is not a daily, the complainant may insist upon the newspaper having the retraction also published in a paper of the neighbourhood. He may also ask the newspaper to publish a properly worded reply of his to the article complained of ; and if the newspaper publishes both the retraction and reply without further comment, no action lies. The Act does not protect a newspaper which has accused one of a criminal offence or referred to a candidate within the days preceding the election. Reports of public meetings of legislative or municipal bodies, or courts, are privileged provided the facts are accurately reported and in good faith. During a suit for defamation against a newspaper, the judge may order the plaintiff to give security for costs, provided the defendant himself furnishes security to satisfy the judgment. No newspaper can take advantage of the Act without having filed the declaration required by law. Every judgment against a newspaper must be published by it in such

paper, at its expense, if ordered by the judgment, under pain of contempt of court.

Expropriation by Hospitals.—By c. 73 a hospital which, having been two years in existence and having one hundred beds, requires land for the enlarging of such hospital or its grounds may expropriate neighbouring property, unless the same is also a hospital, and may, after having secured the approval of the Cabinet, have the compensation due to the owner fixed according to the provisions of the Quebec Railway Act.

Marriage of Natural Children.—By c. 76, in the absence of a special guardian, the clerk of the Superior Court may give his consent to the marriage of a natural child under age.

Family Councils.—C. 77 removes the disability of women to form part of family councils.

Injunction or Mandamus against the Crown or its Ministers.—By c. 79 no such proceedings shall lie.

Provincial Laws.—By c. 80, when the unconstitutionality of a provincial law is raised, only the reasons alleged in the pleadings may be invoked.

Unseizibility.—By c. 84 the privilege of unseizibility extends to the minutes, papers, field notes and books of an architect, save at the suit of the latter's client, and also to salaries not exceeding $1 per day, calculated weekly and based on the total weekly earnings; four-fifths of salaries not exceeding $3 per day; three-quarters of salaries not exceeding $6 per day, and two-thirds of salaries exceeding such amount.

Prohibition and Certiorari.—By c. 85 petitions for writs of prohibition must first be served upon the Attorney-General, together with a reasonable notice of the hour, date and place of their presentation, when the unconstitutionality of a law is alleged or wherever the proceedings before the court of inferior jurisdiction are for a penal or criminal offence. They may be heard on any juridical days and have precedence in appeals.

Similar provisions are enacted with regard to petitions for certiorari in similar cases. They can only be granted by the Chief Justice, Acting Chief Justice or two puisne judges.

In either case the service of the writ has the effect of suspending proceedings before the inferior court.

Petition of Right.—By c. 86, when leave to sue has been granted, the right is lost if the petitioner does not, within sixty days from the granting of the leave to sue, deposit at the office of the Attorney-General a certified copy of the petition and leave to sue, a certificate that $200 have been deposited as security for costs and a notice requiring the filing of a contestation within thirty days.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

Acts passed—89; Public—79; Private—10.

Power Commission.—C. 3, one of the most important measures enacted in recent years, establishes a Power Commission in Saskatchewan, and the Province thus enters the business of generating and distributing electrical power and energy. The Act is based largely upon the Ontario Power Commission Act, as amended in view of the experience gained by

the Hydro-Electric Commission of that Province during many years of successful operation.

The Saskatchewan Commission enjoys very wide powers respecting the manufacture, distribution, sale and supply of electricity (Part I). It has authority to contract with any city, town, village, rural municipality, corporation or person for the supply of electricity to such city, town, village, rural municipality, corporation or person (Part II). The commission has control over all electrical public utilities in the Province and has power, subject to the approval of the Lieutenant-Governor in Council, to make regulations for safeguarding life and property; for ensuring reasonably safe, continuous and satisfactory service to the public; governing the initial charging of lines; and providing for the inspection of all electrical work performed by public utility corporations (Part III).

Electrical Licensing.—C. 4 provides for the licensing and control of electrical supply houses, contractors and journeymen electricians. It is designed to prevent the importation into and use of inferior material in the Province, and to ensure that all electrical work done within the Province shall conform to the requirements of the Canadian Electrical Code. The Power Commission is given authority to enter any premises at reasonable hours for the purpose of inspecting the premises and electrical material, equipment and apparatus found therein; and agents of manufacturers or supply houses, whose headquarters are outside Saskatchewan, must obtain written authority from the Power Commission before offering for sale electrical material, apparatus or equipment of any kind.

Local Government Board.—An amendment (c. 10) to the Local Government Board Act authorizes the Board to fix rates, rents or charges in case of dispute between an individual or a municipality and a public utility company.

Adjustment of Agricultural Debts.—C. 53 provides for the appointment of a Debt Adjustment Commissioner and confers authority upon that officer to effect amicable arrangements between any farmer and his creditors, for the purpose of avoiding legal proceedings. The commissioner is also authorized to enter into an agreement with any farmer, extending over a period not exceeding five years, whereby the farmer transfers to the commissioner, for the benefit of creditors, all growing and future crops, live stock and other chattels. The agreement, when assented to by all the known creditors, binds the farmer and assenting creditors from the date of its registration. After that date, no assenting creditor or person who becomes a creditor can commence any action or proceeding affecting the transferred crops or chattels, and the farmer is debarred from disposing of his chattels, or incurring new debts, during the currency of the agreement.

Tuberculosis.—The Tuberculosis Sanatoria and Hospitals Act (c. 61) provides for the free treatment of tubercular patients. The Saskatchewan Anti-tuberculosis League is entrusted, by Order in Council, with the care, control, conduct and management of tuberculosis sanatoria and hospitals owned by the Province.

Subject to the other provisions of the Act, every person suffering from tuberculosis, and every person who, on the certificate of a duly qualified medical practitioner, is suspected of so suffering, is entitled to receive care and treatment at the expense of the League.

The expenses of the League are met from municipal taxation and a government grant of $1 per day for each patient receiving treatment.

Security Frauds Prevention.—C. 68 replaces the Sale of Shares Act. The latter Act and similar Acts in other provinces, known as "blue-sky" laws, were declared by the Judicial Committee, in *Attorney-General for Manitoba* v. *Attorney-General for Canada* [1929], A. C. 260, to be invalid in so far as they purported to place restrictions on Dominion companies from selling their shares in the Province. The new legislation does not attempt to deal with companies, as such, but controls persons trading in securities, whether as individuals or as agents of companies, and provides for their registration.

The Act is administered by the Attorney-General, who has wide powers to inquire, under oath, into cases of alleged fraud; and punishment by injunction, by cancellation of registration, by publicity or by prosecution under the Criminal Code may follow such inquiry.

Bills of Sale.—C. 69 was drawn by the Conference of Commissioners on Uniformity of Legislation in Canada and has already been adopted by some of the other provinces. It is practically a reproduction of the Chattel Mortgage Act which it replaces.

Assignment of Book Debts.—C. 70 is also a uniform Act drawn by the Conference of Commissioners on Uniformity of Legislation in Canada. Its provisions were formerly included in the Chattel Mortgage Act. The purpose of the legislation is to protect the public against secret assignments of book debts by traders. Every assignment is declared to be void unless in writing, accompanied by affidavits of execution and good faith, and registered within thirty days after its execution.

Workmen's Compensation.—C. 73 is new legislation, introducing an entirely different principle from the existing Act, which remains in force though limited largely in its scope. The new Act introduces the principle of collective liability as opposed to individual liability which is fundamental in the old Act. The compensation of injured workmen is paid from a common fund created from the proceeds of assessments on employers based on their respective pay-rolls and the hazard of their respective industries. Injury is the determining factor, not negligence or blame. The Act is administered by a Workmen's Compensation Board and s. 15 declares that no action shall lie for the recovery of compensation, but that all claims for compensation shall be heard and determined by the Board. S. 16 enacts that the right to compensation provided by the Act shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer of the workman for, or by reason of, any accident happening to him while in the employment of such employer. The new Act eliminates litigation and lump-sum payments of compensation and provides for payment of compensation at a rate not exceeding 66⅔ per cent. of the employee's wages, during the period of incapacity through injury, and, in case of death, for payment of $40 per month to the widow with an additional $10 per month for each child under 16 years, but the total amount paid to the widow and children must not exceed 66⅔ per cent. of the earnings of the deceased.

On their own representations, the members of the "running trades" represented by six of the Railway Brotherhoods are excluded from the operation of the Act, and for that reason the old Act remains in force.

Consolidations.—In accordance with the usual practice, a number of Acts were consolidated and revised and placed anew on the Statute Book. These include the Land Titles Act (c. 23), the Companies Act (c. 28), the Rural Municipality Act (c. 34), the Architects Act (c. 54) and the Drugless Practitioners Act (c. 56).

11. NEWFOUNDLAND.

[*Contributed by* BRIAN DUNFIELD, ESQ., *Acting Deputy Minister of Justice.*]

Elections.—This Act (c. 2) amends the Election law. Under s. 1 the period before an election during which public works must not be carried on is extended. Under s. 2 public charities to able-bodied persons must not be given within twenty-one days before an election, or in the case of a general election after the proclamation for the same except in specially urgent cases properly certified; nor must public moneys be allocated to any person for the performance of public works during such period. Under s. 3 the inmates of the Government Pauper Institution are disqualified from voting. Under s. 4 it is made lawful for a candidate to pay the expenses of conveying voters to and from the polls.

Highway Traffic.—This Act (c. 7) amends the Highway Traffic Act of 1925. An alteration is made in the licensing periods for motor-cars. By-laws for regulating traffic on highways are hereafter to be made on the recommendation of the Chief Officer of Constabulary by the Highroads Commission subject, within the town of St. John's, to the consent of the St. John's Municipal Council.

The law in relation to drivers drunk in charge of a car is amended. For the first offence, provided he has done no injury to persons or animals or to property exceeding $25, an intoxicated driver may be fined not less than $25 nor more than $50; for subsequent similar offences within two years, he shall be imprisoned for not less than seven nor more than thirty days. If he has done any such damage as is above referred to, even in case of a first offence, he may be imprisoned for not less than seven days nor more than one month; and for a second offence, for not less than fourteen days nor more than three months; and for subsequent offences, for not less than three months nor more than one year. In addition to the above penalties he may be deprived of his driving licence for not less than six months nor more than two years from the termination of his sentence, if any.

Alcoholic Liquor.—C. 8, which amends the Act 15 George V, c. 9, entitled "An Act Respecting Alcoholic Liquor," makes a number of amendments in the Alcoholic Liquor Act of 1924.

A bottle, as defined by the Act, is hereafter to be twenty-six fluid ounces instead of twenty-four, the former size being customary to trade.

The power of the Governor in Council to make regulations for the guidance of the Liquor Control Board is extended.

S. 4, in order to avoid doubts, recognizes the existing practice of filling orders received from outside St. John's by mail.

S. 5 clears up some minor doubts as to meaning of sections.

S. 6 institutes a system of permits under which residents in St. John's and adjoining districts may obtain spirits. This does not apply to wines or beers. The permit system is so arranged that the signature of the purchaser is obtained and verified at the time of a sale, and his

purchases are recorded upon the permit, which must be produced at the time of the purchase. Purchase can be made under a permit only at the particular store of the Liquor Control Board mentioned in the permit. Orders from persons outside the above-mentioned districts may be received by mail if properly signed.

No person is to have in his possession more than three bottles of spirits of the same kind at one time, nor more than four bottles in all.

No more than one bottle of spirits on any one day nor more than three bottles in any one week may be sold by the Board to any person. The removal or defacing of the official labels of the Board, or the having in possession of any bottle containing liquor whereon such label is defaced, or from which it has been removed, is made an offence.

Provision is made for stamping an identifying number upon the bottle and the sales slip at the time of sale, with a view to the easier detection of illicit resales of liquor.

The penalties for offences under the original Act are revised and in the main reduced.

Under s. 13 a constable or other person making a search may require the declaration to him of liquor on the premises, and an increased penalty is provided in relation to liquor found which has not been declared.

The finding of liquor in a place obviously designed for concealing is made *prima facie* evidence of keeping with intent to sell, as is also the finding of liquor not bearing the proper labels of the Board.

Prosecutions may now be taken by a constable as well as by the Board. A constable may arrest on view for any breach of the Act, or for regulations made under it.

The commission of three offences within a year in and upon any premises is ground for a declaration by the convicting magistrate, upon the application of the police, that such premises are interdicted premises, and thereafter during the period of interdiction the finding of liquor therein is conclusive evidence of unlawful possession by the occupier, and offences in the premises are subject to maximum penalties.

The period of interdiction is not less than six months nor more than two years. The interdiction may be removed upon a change of ownership.

S. 18 adopts the provisions of s. 48 of the Liquor Act of 1906 with relation to persons found in suspected premises.

A modification is made in the distribution of fines.

A certificate of the Government Analyst as to alcoholic content of any liquor is made *prima facie* evidence thereof.

Commission of Inquiry.—C. 9 is an Act to provide for the creation of a Public Utilities Commission and for the investigation of prices and rates charged to the public, and gives the Governor in Council power to appoint a Commission of Inquiry consisting of seven members, of whom three may be a quorum for any specific investigation. The Commission shall have power to investigate the prices or rates charged to the public in relation to any services of telephones, or telegraphs, electric light, electric power, water, or transportation by land or sea within the Colony; and the prices charged to the public for the distribution or supply of any staple article of food or clothing, or connected with housing, or the like necessities of life, and the premiums charged to the public for insurance against fire.

The Commission may publish its findings. The Commission is given

power to take evidence on oath, and its proceedings are privileged for the purpose of the law of libel and slander.

Restaurants.—C. 10 relates to restaurants and houses of public refreshment. Restaurants are not to be open to the general public between midnight and 8 a.m., except under a special licence to serve refreshments on the occasion of any banquet, dance or other occasion of festivity.

A constable may at any time enter and remove from the premises any disorderly person, intoxicated person or common prostitute.

A magistrate may, on proof by the police that any house or restaurant is commonly frequented by such persons as are above mentioned, make an order still further extending the hours during which such restaurant shall be closed.

Pharmacy.—C. 11, amending c. 43 of the Consolidated Statutes (Third Series) entitled "Of the Pharmaceutical Society and Sale of Drugs," permits the Newfoundland Pharmacy Board to accept attendance for two terms of six months each at an approved Pharmacy Class as equivalent to a year of service on the part of a pupil in practical pharmacy.

Naturalization of Aliens.—C. 14 amends c. 78 of the Consolidated Statutes of 1916, which was a rescript of the Imperial Act of 1914, entitled "British Nationality and Status of Aliens Act," by incorporating in it, in principle, the provisions of the Imperial Amending Acts of 1918 and 1922. These are followed in detail with only such changes as are necessary locally in respect of the machinery for carrying out the procedure.

Air Navigation.—C. 15 makes an initial provision for the control of air navigation. The Colonial Secretary is made the administrative authority. Extensive power is taken to make regulations for the licensing of pilots, the registration, identification, inspection and licensing of aircraft; the licensing, inspection and regulation of aerodromes; and the conditions under which goods, mail and passenger services by air may be carried on; the prohibition of air navigation over certain areas; the areas within which aircraft coming from places outside Newfoundland may land; the carrying out of the provisions of any International Conventions to which Newfoundland may at any time be a party, etc.

S. 8 incorporates the provisions of s. 9 of the (Imperial) Air Navigation Act, 1920, in respect of trespass by or damage caused by aircraft. S. 9 adopts the provisions of s. 10 of the same Act in relation to dangerous flying. S. 10 adopts the provisions of s. 11 of the same Act in relation to the application to aircraft over the sea or tidal waters of the law relating to wreck and salvage.

The Governor in Council may make regulations providing for the investigation of accidents connected with aircraft.

Solicitor-General.—C. 16, amending c. 8 of the Consolidated Statutes (Third Series) entitled "Of the Department of Justice," assigns duties to the office of Solicitor-General, which has been revived after being for some thirty years in abeyance. He is to have so far as applicable the status of the Solicitor-General of England, and he is to act as Crown Prosecutor upon indictments for felony and misdemeanour. He and the Deputy Minister of Justice may each perform the duties of the other during the temporary absence or illness of such other. He is assigned a salary of $5,000.

Deer Reserve.—C. 21, relating to the preservation and propagation of deer, constitutes the Peninsula of Avalon a national reserve for caribou and deer of all kinds, within which these animals may not be killed or pursued.

Department of Marine and Fisheries.—C. 23, amending c. 11 of the Consolidated Statutes (Third Series) entitled "Of the Department of Marine and Fisheries," revises and re-enacts the procedure by which the Department of Marine and Fisheries may expropriate private property for public purposes. The main object of the Act is to define more accurately the procedure and the date of vesting the property in the Crown. It is provided that the Minister of Marine and Fisheries may acquire and convey property for the Crown under his own signature and the seal of his Department, and that the affixing of the Great Seal shall not be necessary.

Encouragement of Shipbuilding.—C. 24, amending the Act 15 George V, c. 23, entitled "An Act Respecting the Encouragement of Shipbuilding and Rebuilding, and Acts in Amendment thereof," alters and somewhat increases the scale of bounties payable on ships built in the Colony, and adds a new class for the purpose of bounty, viz. motor ships.

Inspection of Ships.—C. 25 amends the Act 15 George V, c. 24, entitled "Of the Inspection of Ships." Under the Inspection of Ships Act of 1925 ships classed in Lloyd's Register of Shipping, or in any other corporation or association for the survey and registry of ships approved by the Governor in Council, were not subjected to inspection under the said Act. This exemption is now repealed. It is, however, provided that in the case of British registered passenger ships or when satisfactory evidence has been produced that any other country outside of Newfoundland has steamship inspection laws approximating to the steamship inspection laws of Newfoundland, and such British steamships or the steamships of such country have unexpired certificates of inspection issued by the proper authorities of Great Britain or of such country, the Governor in Council may direct that they shall be subject to no further inspection under this Act than may be necessary to satisfy the Newfoundland Inspectors that the condition of the steamships, their boilers, machinery and life-saving equipment are as stated in the current certificate of inspection of such steamships.

Department of Public Works.—C. 26, amending c. 13 of the Consolidated Statutes (Third Series) entitled "Of the Department of Public Works," revises and re-enacts the procedure by which the Department of Public Works may expropriate private property for public purposes. The existing practice is not substantially changed. The main object of the Act is to define more accurately the procedure and the date of vesting the property in the Crown. It is provided that the Minister of Public Works may acquire and convey property for the Crown under his own signature and the seal of his Department, and that the affixing of the Great Seal shall not be necessary.

Customs.—C. 27 makes some technical amendments in procedure under the Customs Act. The principal effect of s. 1 is that in case money is owing to the Customs by an importer, further goods imported by him may be held by the Customs until such debt is paid. Ss. 2 and 3 make good a defect in the procedure in relation to the landing of goods under bill of sight when invoices are not available, and give the same power as is given under s. 1 of withholding further goods unless and until the

importer completes a proper entry and pays any balance of duty which may be found due. These provisions are made to have effect retrospectively upon all persons who at the time of the passing of the Act are in default to the Customs by reason of failure to complete perfect entries and pay balances of duty in respect of goods heretofore landed on bills of sight.

Merchant Shipping.—C. 29, amending c. 167 of the Consolidated Statutes (Third Series) entitled " Of the Merchant Shipping Service and Desertion from the Royal Navy," abolishes a small hospital tax on foreign-going vessels, the yield of revenue from which had become negligible.

Income-tax.—C. 36 reimposes income-tax along the lines of the Act of 1922, with certain changes and modifications.

S. 2 defines income, and it may be noted that the proceeds of life insurance policies payable on death, or if of the endowment type, upon maturity, are not treated as income. Business expenses, certain losses, bad debts, and allowances for wear and tear and obsolescence, and for charities not exceeding 10 per cent. of the tax-payer's income, are allowable as deductions from income. A deduction of $300 for each child under twenty years of age or incapable of self-support is also permitted ; the same allowance is made in respect of other dependents. Dividends received from a company which has paid the company tax are not liable to normal tax in the hands of shareholders, but only to super-tax. The income of companies incorporated in Newfoundland whose business and assets are carried on and situate entirely outside of Newfoundland is exempted, as are also the profits of a " Personal Holding Corporation " incorporated in this Colony. This is defined as a company having not more than five stock-holders, all non-resident, and 80 per cent. of whose assets, other than cash, consists of stocks, bonds, debentures and the like, and 80 per cent. of whose income is derived from trading in the same and which does not do business with the public in this Colony. Such a corporation, however, is required to pay a moderate franchise tax, the maximum being $250.

S. 4 fixes the rate of taxation. Normal tax is 5 per cent. upon income exceeding $1,500 but not exceeding $6,000 in the case of unmarried persons and widows and widowers without dependent children ; and exceeding $3,000 but not exceeding $6,000 in the case of all other persons ; and 8 per cent. upon all income exceeding $6,000. In addition to this there is a super-tax varying from 2 per cent. upon income between $6,000 and $8,000 to 35 per cent. upon income exceeding $100,000.

Companies are to pay a normal tax of 8 per cent. on income exceeding $5,000, but no super-tax. Fire insurance companies are to pay 5 per cent. upon their premium income. Banks and Trust Companies are to pay 8 per cent. upon net income derived from this Colony or five-sixteenths of 1 per cent. on all their business, *i.e.* deposits, current loans, over-drafts and discounts (excluding foreign bills), whichever may be the larger. Money lent by a trust company on mortgage for two years or more is not deemed a current loan.

In s. 6 provision is made for a process of averaging over three years for the purpose of super-tax. S. 7 exempts certain incomes of an official or benevolent nature. The remainder of the Act deals almost entirely with procedure, save s. 19, which provides for a tax of 8 per cent. on rents received by absentee landlords, and for the taxation of income from Newfoundland received by a non-resident. S. 27 provides that certain

returns shall be available for inspection by the public and shall be laid annually upon the table of each House of the Legislature.

12. BERMUDA.

Acts passed—53.

Indictable Offences.—No. 1 consolidates and amends the Indictable Offences Acts, and deals with the method of bringing the accused and witnesses before the justice, the examination by the justice, admission to bail and the method of estreating recognizances.

Veterinary Surgeons.—No. 3 provides for the registration of persons practising veterinary science.

Criminal Code.—No. 4 amends the Criminal Code by extending the value of the property forming the subject-matter in charges of stealing and like offences.

Gaols.—No. 5 amends the Gaols Act, 1927, to allow gratuities earned by prisoners to be paid to members of their families and other dependents.

Lunacy.—No. 8 consolidates and amends the Acts relating to lunacy and lunatics.

Vaccination.—No. 19 exempts a conscientious objector from submitting his child for vaccination on his making, within four months after the coming into operation of the Act and/or the birth of a child, a statutory declaration in the prescribed form, such declaration to be subject to a stamp duty of 5*s*. It is, however, provided that if, in the opinion of the Director of Health, an outbreak of smallpox is imminent or has become prevalent, he is empowered to direct the vaccination of any person temporarily or permanently resident in the Colony, and any parent disobeying such direction to have his child vaccinated shall be guilty of an offence against the Public Health Act, 1920.

Merchant Shipping.—No. 32 prohibits aliens, with certain exceptions, from acting as masters, chief officers or chief engineers of merchant ships registered in the Colony, or as skippers or second hands of a fishing boat so registered.

Standard Time.—In the interests of shipping and wireless signalling, No. 39 adopts a standard time for the Colony to be fixed in accordance with the Time Zone Chart.

Boards.—No. 42 consolidates and amends the law with respect to boards and other subordinate executive bodies.

III. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir Robert Garran, K.C.M.G.]

Public Acts passed—35.

The important legislation passed in 1929 deals with finance ; notably the Financial Agreement Validation Act, funding the public debt of Australia and providing for its redemption by a sinking fund. The Commonwealth Bank Act has been amended to prevent the excessive export of gold. Other measures of a financial nature are those granting assistance to South Australia and Tasmania, both of which States have

been adversely affected monetarily by Federation. The Financial Agreement necessitated an alteration in the Constitution.

Banking.—The Commonwealth Bank Act (No. 31) gives the Board of the Commonwealth Bank power, when authorized by the Treasurer, to require persons to furnish particulars of gold coin or bullion held by them and to require such persons to exchange that gold coin or bullion for Australian notes.

It also provides for the prohibition of the export of gold except by permission of the Treasurer given after the recommendation of the Board. The restriction does not apply in the case of a person leaving the Commonwealth and taking with him gold not exceeding £25 in value.

Bankruptcy.—Act No. 28 recasts in a valid form certain sections of the Bankruptcy Act, 1924. S. 18 of that Act provided that courts having jurisdiction in bankruptcy shall be such State courts as are specifically authorized by the Governor-General by proclamation. This was held not to be a vesting of jurisdiction by the Parliament as required by s. 71 of the Constitution. S. 12 of the Act declared that certain officers shall be officers of the court. It was held that the Commonwealth has no power to appoint officers of State courts, and that the provision was invalid.

Bounties.—The Iron and Steel Products Bounty Act (No. 32) increases the rate of bounty on galvanized sheets from £3 12*s.* per ton to £4 10*s.* per ton.

Constitution Alteration.—By the Constitution Alteration (State Debts) Act (No. 1) the Constitution is altered by inserting after s. 105 the following section :

105A.—(1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including : (*a*) The taking over of such debts by the Commonwealth ; (*b*) The management of such debts ; (*c*) The payment of interest and the provision and management of sinking funds in respect of such debts ; (*d*) The consolidation, renewal, conversion and redemption of such debts ; (*e*) The indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth ; and (*f*) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

A proposed law embodying the above provisions was passed in both Houses of Parliament by an absolute majority in 1928, and was duly approved by Referendum in the same year.

Consequent upon this alteration in the Constitution is the Financial Agreement Validation Act, 1929, which is referred to under the heading "Finance."

Customs Tariff.—The Tariff Board Act (No. 5) will enable the Board to investigate more speedily the questions of variation in customs duties which come before it. This will be accomplished by the appointment of sub-committees of the Board to conduct inquiries. This procedure is authorized by a new section—12A inserted in the principal Act. Provision is also made relieving the Board of some comparatively minor duties.

Economic Research.—The Economic Research Act (No. 9) creates a Bureau of Economic Research with the following powers and functions: (*a*) to carry out economic research in respect of—(i) primary industries, (ii) secondary industries, (iii) marketing, (iv) transport, (v) customs and excise tariffs, (vi) bounties, (vii) industrial matters, (viii) taxation, (ix) finance and currency, and (x) such other matters as are prescribed; (*b*) to investigate and report to the Minister on—(i) the granting of assistance for the promotion of economic research, (ii) co-operation in economic research with academic and other bodies in Australia and elsewhere, and (iii) the establishing and awarding of economic research studentships and fellowships; and (*c*) to publish from time to time results of economic investigations carried out by the Bureau.

Finance.—The Financial Agreement Validation Act (No. 4), which validates the agreement made between the Commonwealth and the States, provides for the consolidation of the public debt of Australia, the constitution of a common borrowing authority and the adjustment of financial relations between the Commonwealth and the States.

With respect to the public debt of Australia a portion of the interest payable thereon is to be found by the Commonwealth and the balance by the various States proportionately to their indebtedness. A sinking fund calculated to repay the existing debt in fifty-eight years is established. Provision is also made for sinking funds in respect of all future borrowings, the extent of which will be determined from time to time by the Loan Council, the common borrowing authority composed of representatives of the States and the Commonwealth.

The provisions by virtue of which the Commonwealth pays part of the public debts of the States supersede those under which the Commonwealth has since 1910 paid to the States annually, from the surplus revenue of the Commonwealth, the sum of 25*s*. per head of population.

The National Debt Sinking Fund Act (No. 17) provides for the inclusion of a representative of the States on the National Debt Sinking Fund Commission. This provision is consequent upon the Financial Agreement referred to above.

The Tasmania Grant Act (No. 23) authorizes the payment by the Commonwealth to the State of Tasmania of the sum of £250,000 a year for a period of five years. States such as Tasmania, South Australia and Western Australia have suffered financial disabilities as a result of federation and the grant is in the nature of compensation therefor.

The South Australia Grant Act (No. 26) authorizes a payment of £1,000,000 to the State of South Australia by the Commonwealth spread over a period of three years.

Industrial.—The Transport Workers' Act (No. 3) embodies the regulations made under the Transport Workers' Act, 1928. These regulations provide for the licensing of waterside workers. Unlicensed persons are prohibited from engaging in waterside work. Licences are subject to cancellation upon the grounds that the worker (*a*) has refused or

failed to comply with any lawful order or direction given in relation to his employment; (*b*) having offered for work or engaged to work at the port in respect of which he was licensed, has refused to work in accordance with the terms of a current award of the Commonwealth Court of Conciliation and Arbitration applying to such work; (*c*) has, either alone or in company with other persons, exercised or attempted to exercise intimidation or violence in relation to, or used threatening or abusive language to, any waterside worker or to any officer authorized to perform duties in relation to the administration of this Act; (*d*) has been convicted of an offence against this Act or the regulations thereunder; or (*e*) has been convicted of an offence against any other Commonwealth law, or against any State law committed upon a wharf, pier, jetty, hulk, barge or ship.

Marketing.—The Wine Overseas Marketing Act (No. 6) creates a Board to control the export and sale and distribution after export of Australian wine. The object of the Act is to stabilize the Australian export trade in wine.

The Wine Grapes Charges Act (No. 7) is a complementary Act to the Wine Overseas Marketing Act. A charge of 5*s.* per ton of grapes delivered at any winery or distillery is imposed. The moneys so obtained will be used by the Wine Overseas Marketing Board to carry on its operations.

Repatriation.—The War Service Homes Act (No. 13), besides various machinery amendments, modifies the restrictions upon the sale of a war-service home which is in the course of being acquired by an ex-soldier. The stringency of the restrictions has militated against a fair value being obtained by the ex-soldier in respect of his interest.

The Australian Soldiers' Repatriation Act (No. 14) makes provision for the creation of two classes of tribunals to enable ex-soldiers to make appeals in respect of pensions against the determinations of the Repatriation Commission. Entitlement tribunals will give a final decision as to whether or not an ex-soldier is entitled to the grant of a pension. Where the subject-matter of the appeal is the amount of pension which should be granted, the matter will come before an Assessment tribunal.

1. NEW SOUTH WALES.

Advances to Settlers (Government Guarantee).—Act No. 46 establishes a Guarantee Board with power to give banks and other financial institutions a guarantee on behalf of settlers for expenditure on approved items, or to meet approved liabilities.

Constitution (Legislative Council).—Act No. 28 is designed to prevent an alteration of the constitution involving abolition of the Legislative Council without a referendum of the electors.

Co-operation.—Act No. 14, *inter alia*, extends and defines more clearly the borrowing powers of societies; it simplifies provisions for calling special meetings by the Registrar and for winding-up on a certificate of the Registrar and for registration of liens to rural credit societies.

Criminal Law.—By the Crimes (Amendment) Act, No. 2, *inter alia*, increased penalties are provided against persons convicted of driving motor vehicles whilst intoxicated. Corporal punishment may be inflicted upon persons adjudged guilty of attacking with razors and lethal weapons.

The Crimes (Fraudulent Misappropriation) Act, No. 39, makes it clear that, if a solicitor or agent is entrusted with money to pay a deposit and misappropriates it, he will be liable whether he received the money directly from his principal or through a third party.

The Crimes (Further Amendment) Act, No. 26, provides for the punishment of persons who maliciously waste or divert supplies of electricity.

By the Crimes (Intimidation and Molestation) Act, No. 31, police are given greater powers to deal with mass-picketing, intimidation and molestation, and unauthorized processions.

Dried Fruits.—Act No. 6 provides that the Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative powers of the State. A marketing provision declares that the Board shall not operate so as to impair in any way freedom of trade and commerce or intercourse among States.

Entertainments Tax.—Acts Nos. 55 and 56 impose a tax upon payments for admission to entertainments.

Family Endowment.—The Family Endowment (Further Amendment) Act, No. 58, provides endowment of 5s. a week for such children as are not covered by a living wage. At the end of every thirteen weeks the recipient must furnish a return of income for the period as a basis for the future rate of endowment. Wages paid by employers in respect of employees under Federal awards are not subject to taxation.

The Finance (Family Endowment Tax) Act, No. 20, provides for a reduction of the percentage at which contributions upon wages paid by employers are to be made under the Family Endowment Act, 1927–8, and for the payment of certain sums in lieu of tax by the Crown and bodies representing the Crown.

Industrial Arbitration.—Act No. 41 removes persons employed in rural industries from the operation of the Industrial Arbitration Acts and rescinds all awards applying to such persons. Parts 10 and 11 of the Act, relating to labour exchanges, will still apply to rural workers.

The Industrial Arbitration (Living Wage) Amendment Act, No. 40, declares that the male basic wage shall be fixed on the requirements of a man and wife with one child under 14. The Industrial Commission is empowered to fix the amount of an adult female living wage at such percentage of adult male wage as it deems proper.

Newspapers.—The Local Government (Amendment) Act, No. 13, defines "newspaper" as a newspaper upon which is printed a statement that it is registered for transmission by post or under the Newspapers Act, 1928, and which circulates within an area or district with respect to which the term is used.

Lotteries and Art Unions.—By Act No. 9 promoters of lotteries or raffles at bazaars or fancy fairs must obtain permits and conduct the same on conditions prescribed by such permits.

Matrimonial Causes.—By Act No. 5 judges of the Supreme Court may make general rules for regulating the practice and procedure of the Court for fixing fees and allowances to officers of the court and solicitors in respect of proceedings, and for enabling persons to sue in court *in forma pauperis*. Rules may also be made delegating to the Registrar, or Deputy Registrar, power to exercise jurisdiction of the court except in respect of matters relating to the liberty of the subject.

Metropolitan Milk.—Act No. 59 provides for the regulation and control

by a partly-elected Corporate Board of the supply and sale of milk for consumption in the metropolis. The Board is required to devise improved methods of collecting, treating and distributing milk; to eliminate unhygienic, wasteful or unnecessary agencies; to establish grades of milk, including a grade suitable for infants; to fix minimum prices which may be paid by milk vendors to dairymen; and to fix prices which may be charged by milk vendors to the public. The Board will be financed by a levy on milk supplied for consumption and is given ample powers for enforcement of the provisions of the Act.

Public Hospitals.—Act No. 8 creates a corporate body to be known as the Hospitals Commission of New South Wales. The duties of the Commission will include inquiry into administration and management of every subsidized public hospital. Powers of a Royal Commission are conferred upon the Hospitals Commission for the purpose of conducting inquiries under the Act. The Governor, on the recommendation of the Commission after inquiry, may order any incorporated hospital to be closed, amalgamate any two or more incorporate hospitals, or extend or limit their activities, authorize the board of any hospital, separately or jointly with the board of any other hospital, to establish and maintain institutions for the relief of persons suffering from tuberculosis and other infectious diseases and for convalescent or incurable persons. Hospitals scheduled in the Act will become corporate bodies. It is declared that each hospital incorporated under the Act shall be managed by a board of directors, and provision is made for election of directors, etc. Patients are made liable for payments (according to their means) to hospitals in which they receive relief, and amounts due may be recovered as debts in any court of competent jurisdiction. Destitute persons must be treated free of charge.

Public Service.—By Act No. 10 the Public Service Board may enter into an agreement with any association or organization representing any group or class of officer or employee as to salaries, fees and allowances and grades so agreed upon. Provision is made for the classification of officers, for the constitution of promotion committees, and for enforcement of judgments against any officer or employee of the Public Service for payment of money. Other provisions relate to initiation by a Board of Inquiry, gratuity in lieu of extended leave, permanent appointment of temporary officers, and consequential amendments.

Surveyors.—Act No. 3 provides for the registration of land surveyors, and regulates the making of surveys. It constitutes a corporate Board of Surveyors composed of the Surveyor-General (ex-officio President) and five other licensed surveyors to be appointed by the Governor.

Trustees.—Act No. 60 declares that the rule of law known as the rule against perpetuities shall not render void—(*a*) a trust or power to sell property in any case where a trust of proceeds of sale is valid; (*b*) a trust or power to lease or exchange property in any case where lease or exchange directed or authorized by trust or power is ancillary to the carrying out of a valid trust. The Act declares also that a power to postpone a sale shall be implied in every trust for sale unless a contrary intention appears.

Workers' Compensation.—By Act No. 36 "Worker" is defined as a person whose wages do not exceed £550 per annum. Share-farmers are removed from the Act. A worker must be incapacitated for seven days to be eligible for compensation.

2. QUEENSLAND.

[*Contributed by the* Hon. Sir Littleton E. Groom, K.C.M.G., K.C., M.A., LL.M.]

Agriculture.—The Diseases in Plants Act (No. 1) consolidates and amends the law relating to diseases in plants. The Governor in Council may by proclamation declare that (i) the introduction into Queensland from another State in the Commonwealth or into any portion of Queensland specified of any or every tree, plant or vegetable which is, in his opinion, likely to introduce any insect, fungus or disease, shall be either prohibited or permitted only as prescribed; (ii) that the removal of any tree, plant or vegetable from one place to another is prohibited or permitted only as prescribed; (iii) fruit districts be constituted for the purposes of the Act; (iv) any diseases affecting trees, plants, fruits or vegetables, or any fungus or insect, be a disease, fungus or insect within the meaning of the Act; (v) that any plant, insect or fungus be a pest and that the pest shall be dealt with as prescribed (s. 8).

Provision is made for the appointment of inspectors (s. 6) with adequate powers (s. 10).

Registration of orchards used to obtain a monetary return may be required, and nurseries must be registered (s. 7). The introduction into Queensland of any insect, fungus, tree, plant or vegetable contrary to the Act is prohibited (ss. 8, 9).

When an inspector finds upon any land, premises or place any tree, plant, fruit or vegetable which is in his opinion diseased, or any insect or fungus harbouring in any building, structure, vehicle, box, etc., he may order the occupier, or if none, the owner, to take the required steps for eradication (s. 11). On failure in compliance with an order of the inspector, the inspector may take measures to enforce it (s. 12) and costs and charges incurred are recoverable from the occupier or owner (s. 13). When it is necessary for the prevention of the spread of any virulent disease that any trees, plants or vegetables which are not affected thereby should be destroyed, an order for their destruction may be issued (s. 11 (5)) and compensation may be granted (s. 21 (2)). Power is given to deal with abandoned orchards and nurseries (s. 14). Quarantine provisions are enacted (s. 15). The owner of any land or premises in which any disease or pest appears must within twenty-four hours of its discovery give notice thereof (s. 16). If an inspector finds upon any land any pest or disease he must forthwith serve a notice on the occupier requiring its destruction or the prevention of the spread thereof (s. 17). Whenever a disease or pest exists on any land or premises, a notice may be served on the occupier, requiring him to quarantine the land and premises for a period not exceeding twenty-one days and take the measures prescribed (ss. 18, 19). Provisions are made for the immunity of inspectors (s. 21), limitation of actions (s. 22), for offences (s. 23) and service of notices (s. 24).

Under s. 27 it is provided that "in addition to, and without in any way limiting, the powers of the Governor in Council under this Act, the Governor in Council is empowered from time to time by Order in Council to issue such orders and give such directions and prescribe such matters and things, *whether in addition to or amendment of this Act*, as will be calculated to give full effect to the objects and purposes of this Act."

Under s. 28 wide powers of making regulations are enacted. The Governor in Council may make regulations "providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act, and where there may be in this Act no provision or no sufficient provision in respect of any matter or thing adequate, necessary or expedient to give effect to this Act, providing for and supplying such deficiency."

Banana Industry Protection.—Act No. 12 is designed to make better provision for the protection of the banana industry. Where necessary the Act is to be read with the Diseases in Plants Act of 1929.

Owners or occupiers of banana orchards used for obtaining monetary returns must register them (s. 3).

For the purpose of assisting in the improvement and development of the banana industry a Board may be constituted, consisting of two representatives of the Government and two representatives of the growers (ss. 4–5).

The Board's duties are (*a*) to assist the Minister in an advisory capacity in regard to problems appertaining to the culture of bananas; (*b*) and also in regard to banana cultivation and certain pests and diseases; (*c*) to aid in the dissemination of information dealing with the culture of bananas; (*d*) to furnish reports on such matters as may be requested by the Minister; and (*e*) to undertake powers, duties and responsibilities imposed by Order in Council or delegated by the Minister (s. 6). Further powers may be conferred on the Board by Order in Council, and it may be entrusted with the administration of certain provisions of the Diseases in Plants Act of 1929 (s. 7).

Banana districts may be constituted (s. 8) and a chief inspector (s. 9) and agents (s. 10) and secretary and other officers appointed (s. 11). A fund is to be established out of which is to be paid expenditure under the Act; it is made up of assessments and penalties (s. 12). Assessments are made and levied on the growers of bananas as prescribed (s. 13). The provisions of the Diseases in Plants Act of 1929 shall, where necessary, be applied in respect of the provisions of this Act and to the Board, chief inspector or agents. Certain other machinery clauses are enacted and regulative power provided.

Soil Survey.—The preamble of Act No. 29 sets forth that it is considered that it would be advantageous to settlement and development generally in Queensland if a soil survey of the lands were carried out. Accordingly s. 3 provides that, for the purpose of making and carrying out a soil survey, any authorized person may (*a*) enter upon any land with such assistants, plant and equipment as are required; (*b*) dig and bore into any land so as to ascertain the nature of the soil; (*c*) take samples of the soil, earth, gravel, stone or other material, or water, or of any plant growing on the land for any purposes, scientific or otherwise, as may be necessary; (*d*) make any inspection, investigation or examination, and do all things necessary to such soil survey.

No action for damage lies unless, in the exercise of his power under the Act, the authorized person has been guilty of negligence (s. 4). Power to make regulations is provided.

Constitution.—The Constitution Act Amendment Act of 1929 (No. 4) amends the Constitution Act Amendment Act of 1896 as amended by other Acts by reducing the amount paid to each of the

members of the Legislative Assembly from £750 to £500; the payments to speaker and the chairman of Committees from £1,250 and £900 respectively to £1,000 and £700. It amends the Officials in Parliament Act of 1896 as amended, by reducing the payments to each of the Ministers from £1,250 to £1,000 (ss. 2, 3).

Engineers.—The Professional Engineers Act (No. 30) provides for the registration of professional engineers. This Act follows upon the lines of similar statutes such as the Architects of 1928 (19 Geo. V, No. 21). It constitutes the Board of Professional Engineers of Queensland (s. 4), defines its duties (schedule), provides for a register (s. 11); enacts the qualifications necessary for registration (Part IV, ss. 14, 15) and deals with prohibited practices (s. 22). The necessary machinery clauses and regulative power are set out in the statute.

Evidence.—The Official Inquiries Evidence Act (No. 2) amends the principal Act in several particulars. The penalty for a witness failing to attend or produce documents before a Royal Commission when summoned is increased from £20 to £500 (s. 4). Witnesses are required to continue in attendance, and a witness failing to appear may be arrested. A witness is not compellable to disclose to a Commission any secret process of manufacture. A Commission may inspect any documents produced before it, may retain them for a reasonable period and make copies of relevant matter (s. 5).

Hospitals.—No. 24 is an Act to amend the Hospitals Acts, 1923 to 1928, in certain particulars. Among other things it enables a Hospital Board to apply to the Governor in Council for permission to borrow money by the sale of debentures.

Industry.—The Industries Assistance Act (No. 16) is an Act to foster the development of secondary industries by enabling advances to be made or guaranteed for the assistance of corporations engaged, or who may hereafter be engaged, in such industries. A Board called the Industries Assistance Board is constituted. It consists of three members appointed by the Governor in Council (s. 3). The duty of the Board is to advise the Minister in connexion with the Act, and to make inquiries and investigations (s. 4). To foster and stimulate the development of secondary industries in Queensland the Minister, with the approval of the Governor in Council, may render financial assistance for the construction of works or for any other purposes for the development of the industry concerned by making advances or guaranteeing the repayment of advances in respect of any corporation to which the Act applies. It must be proved to the Minister, on a report from the Board, that application is in accordance with the Act and that it is in the interest of the State that such assistance should be given, and that the carrying on of such industry is calculated to promote employment in the State. In approving of any such application the Minister must take into consideration the question whether or not it is practicable for the applicant to obtain assistance through the ordinary financial channels (s. 5). Specified particulars must be furnished with the application (s. 6) and the Board has to investigate the application and make recommendations (s. 7). Advances are made out of moneys appropriated annually, and provision is made for security for advances (s. 12) and the recovery of moneys paid under guarantee (s. 14). S. 15 imposes defined obligations upon the corporation concerned during the period of indebtedness with respect to the non-disposal of assets, insurance, maintenance,

inspection, supply of information, audit and the keeping of prescribed accounts.

Juries.—Act. No. 19 is an Act to consolidate and amend the law relating to juries. Except as otherwise provided, (i) every male person between the ages of 21 years and 60 years, who is of good fame and character, resides within Queensland, is a householder, and who is enrolled on the respective annual electoral rolls for the time being as an elector under the laws relating to the election of members of the Legislative Assembly; and (ii) any female person between the ages of 21 years and 60 years, being a householder, who is of good fame and character, resides within Queensland, is so enrolled and who notifies in writing, addressed to the principal electoral officer or the electoral registrar for the electoral district for which she is so enrolled, or other prescribed officer, that she desires to serve as a juror, shall be qualified and liable to serve on all juries that may be empanelled for any trial or inquiry within the jury district within which such persons are shown by the respective annual electoral rolls to reside. Disqualifications are specified, as (*a*) anyone who is not a natural born or a naturalized subject of His Majesty; (*b*) anyone who has been convicted of any crime or misdemeanour, unless he has received a free pardon; (*c*) anyone who is an undischarged insolvent or bankrupt; (*d*) anyone who is not able to read and write the English language; (*e*) anyone who is of bad fame or repute.

Provision is made for the usual exemption from service of persons holding official or other positions, or who are incapacitated (ss. 6, 7, 8). The Act contains the usual machinery provisions of the law. Under s. 18 every civil trial had before a jury must be before a special jury of four persons. Upon application, on behalf of the Crown or on behalf of an accused person, the court may order, in the case of a criminal trial, that it shall be had before a special jury of twelve persons (s. 19). S. 12 (*b*) defines the qualifications of special jurors: accountants, architects, auctioneers and commission agents, auditors, brokers and engineers, Crown lessees, directors of companies (if not exempted), farmers (not being farm employees), garage proprietors, indent agents, mechanical or mining engineers (if not exempted), mercantile managers, merchants, station managers, storekeepers and warehousemen.

Wide powers are conferred under s. 51, authorizing the making of rules of court. The Governor in Council with the concurrence of a majority of the judges of the Supreme Court may by Order in Council make rules of court, providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and whether in amendment to or modification of or in addition to this Act, and where there may be in this Act no provision or no sufficient provision in respect of any matter or thing adequate, necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency. Without limiting the generality of the foregoing power to make rules, rules may be made otherwise amending the provisions of this Act, as may be necessary or convenient.

Industrial Conciliation and Arbitration.—Act No. 28 was passed to make better provision for the maintenance of peace in industry; to provide for the regulation of the conditions of industries, by means of industrial conciliation and arbitration; to establish an Industrial Court.

I. *The Industrial Court.*—The Board of Trade and Arbitration is abolished, and a new tribunal is established, the Industrial Court, which is made a court of record and has a seal which shall be judicially noticed. The Governor in Council, by commission, shall appoint one of the judges of the Supreme Court to be the judge of the Court. Provision, however, is made for the President of the Board of Trade and Arbitration under the repealed Acts to be a judge of the Court under the new law. The Governor in Council may in lieu of a Supreme Court judge appoint a person qualified to be appointed a judge of the Supreme Court to be a judge of the Court. Power is given also to the Governor in Council to require any one or more of the permanent judges of the Supreme Court to act as an additional judge of the Court for such period as is thought fit. If a judge of the Supreme Court is appointed judge of the Court no additional remuneration is paid; but if a person not a judge of the Supreme Court is appointed, he is to receive such remuneration as the Governor in Council thinks fit. If more than one judge is sitting at the same time, each of them constitutes the Court. The term of office for a judge is a period not exceeding five years (s. 7). The Court may appoint an assessor at any stage of an appeal or reference, in relation to the appeal or reference (s. 8).

Power is conferred upon the Governor in Council to appoint an actuary, and/or statistician whose duties shall be to aid the Court, or a Board, or a Conciliation Commissioner in respect of industrial causes, investigations, declarations or appeals. Such officer shall on being required so to do furnish the Court, Board or Conciliation Commissioner with any statistical information required in respect of such industrial cause, investigation, declaration or appeal. In addition such officer shall, if requested so to do, advise the Court, Board or Conciliation Commissioner as to what the probable economic effect of any award or declaration may be in relation to the community in general and for the probable economic effect thereof upon the industry or industries concerned.

The actuary and statistician is endowed with the powers of a Royal Commission under the Official Inquiries Evidence Acts, and given power to collect statistics and obtain information required from any person (s. 9).

The Court has jurisdiction in all industrial causes in any calling which are referred to it or such jurisdiction as is conferred under the Act. Its jurisdiction on questions of interpretation in respect of industrial matters is exclusive. Except with the consent of the Board, or where the Board has been guilty of delay, the Court cannot entertain any industrial matter in respect of which the Board is about to make an award or interfere with any award except on appeal or on intervention duly brought as provided.

Any matters in relation to an industrial cause concerning which an agreement has been arrived at before the Board shall to that extent form an agreement, and be registered. The only matters in relation to such an industrial cause which shall be referred to the Court are those which the Conciliation Commissioner certifies as being matters upon which no agreement can be arrived at before the Board and concerning which there have been several genuine attempts to come to an agreement within the space of three months before such reference, and which the Commissioner considers it reasonable and desirable that the Court should

decide. In the case of a dispute which, in the public interest, the Conciliation Commissioner thinks it desirable shall be referred to the Court before the expiry of three months, he may so refer the dispute to the Court (s. 10). Except as provided in the Act there is no appeal to the Court against any award, or part of proceedings, of a Board. An appeal may be brought by any person bound by the award or aggrieved by the proceedings, or by any industrial association interested therein, on the ground that the Board before making the award concerned or in proceedings for the variation of the award, or in the certifying of any agreement, did not observe the bases as laid down by the Act. On the appeal the Court can add any parties interested, take fresh evidence, and has all the powers of a Board, and may confirm, rescind or vary the award, or make a new award, or such other orders as it thinks fit (s. 11). Wide powers are conferred upon the Court (s. 12).

The Court may declare general rulings relating to any industrial matter for the guidance of suitors and of Boards and in order to prevent a multiplication of inquiries. These declarations shall be *prima facie* binding as decisions of the Court upon any board, conciliation commissioner or magistrate. As instances of such declarations, the Court may make declarations as to (*a*) the cost of living; (*b*) the standard of living; (*c*) the minimum rate of wages to be paid to persons of either sex (the basic wage); (*d*) the standard of hours.

The minimum wage of an adult employee must not be less than is sufficient to maintain a well-conducted employee of average health, strength and competence, and his wife and family of three children, in a fair and average standard of comfort, having regard to the conditions of living prevailing among employees in the calling in respect of which the minimum is fixed. The earnings of the children or wife are not to be taken into account. The minimum wage of an adult female employee must be not less than is sufficient to enable her to support herself in a fair and average standard of comfort, having regard to the nature of her duties and the conditions of living prevailing among employees in the calling in respect of which the minimum wage is fixed. The Court has exclusive jurisdiction to fix the minimum rate of wages (the basic wage) and the maximum weekly hours to be worked (the standard hours) in industry or particular industries. The Court in declaring the minimum rate of wages may declare an hourly rate, daily rate or weekly rate, either generally or in respect of specified industries.

It is the duty of the Court, as soon as conveniently possible after the commencement of the Act, to make declarations as to (*a*) the basic wage, (*b*) the standard hours in industry. In its decisions and declarations the Court must take reasonable care to avoid overlapping with Federal awards. In making declarations in regard to basic wage and standard hours the Court must take into consideration the probable economic effect of such declarations in relation to the community in general and the probable effect thereof upon industry or any industries concerned (s. 13). For the purpose of making these declarations the Court shall be constituted by the Judge and two Conciliation Commissioners (s. 14). Until a Conciliation Board has been constituted in any calling the Court has full jurisdiction in respect of any industrial cause or may constitute a Conciliation Commission to be a Board (s. 15). Certain defined matters may be referred to an industrial magistrate and a right of appeal is allowed (ss. 16, 17, 18).

The Court's jurisdiction in industrial causes, whether original or by appeal, is exclusive (s. 19) and the decision final (s. 20). Under s. 22 the persons are enumerated upon whom the award is binding. The award of the Court has the force of law and continues in force for a period specified in the award, not exceeding twelve months. Thereafter the award continues in force until a new award is made (s. 21). The Court may rescind or vary any of its acts.

II. *Conciliation Commissioners and Conciliation Boards.*—The Governor in Council shall appoint two Conciliation Commissioners for the State on terms as to remuneration and tenure as he thinks fit, and they shall have authority and jurisdiction in respect of the whole State. Their duties, jurisdiction and powers may be prescribed (s. 26).

Conciliation Boards shall be constituted by the Court, for any one or more callings or groups of callings. It is the duty of the Court to appoint a Conciliation Commissioner to be chairman of any Board so constituted. The Minister shall appoint the other members of the Boards who are nominated as provided in the Act. On the chairman and members being appointed, the Board is constituted. Besides the chairman each Board consists of two or four members, as recommended by the Court.

One half in number of members must be representative of the employers and the other half representative of the employees (s. 27). A Board with respect to the calling or groups of callings for which it has been created may make an award in respect of any industrial cause in connexion with such calling or group of callings. No industrial dispute can be referred to the Court until it has first been referred to a Conciliation Board or a Conciliation Commissioner. The duty of the Board is to endeavour to bring about a settlement of the dispute. It must be expeditious and carefully inquire into the merits and the right settlement thereof, and do all things right and proper for inducing the parties to come to a fair and amicable settlement.

Legal formalities may be dispensed with. If a settlement of the dispute is arrived at, the terms must be set forth in an industrial agreement, and, when certified and filed, the parties are bound thereby. If no agreement is arrived at by the parties or members of the Board, the Board must endeavour to induce the parties to agree to a provisional arrangement until the dispute can be determined by the Court. A part agreement may be made. The only matters in relation to an industrial dispute to be referred to the Court are those which the Conciliation Commissioner certifies as matters upon which no agreement can be arrived at, and concerning which there have been several genuine attempts to come to an agreement within the space of three months before the reference, and which the Commissioner considers it reasonable that the Court should determine. If, however, it is in the public interest, the Commissioner may refer a dispute to the Court at any time. Where no settlement, and no part settlement, has been arrived at, the Conciliation Commissioner shall refer the dispute to the Court for settlement (s. 27). In making awards a Conciliation Board shall have regard to the declarations of the Court as to (i) the basic wage, (ii) the standard hours, as so fixed by the Court, and shall be bound by such declaration (s. 29). No industrial agreement shall be entered into and no award made for a wage lower than the declared current basic wage (s. 30). All the powers of a Board may be exercised by a majority of the members thereof (s. 38). The Commissioner, who is made chairman, has not a primary vote, but,

in case of equality of voting, at the request of the parties has a casting vote (s. 39). The award is binding on the person specified in the Act, and is in force for twelve months, and thereafter until a new award is made (s. 42).

III. *Industrial Agreements.*—Part IV of the Act makes provision for the making of industrial agreements between industrial unions or associations of employees and employers, for any term not exceeding three years. These are enforceable as if they were awards of the Court, and the Court has power to declare an industrial agreement to be a common rule in any calling to which it relates (s. 48).

IV. *General.*—The Judge or a Commissioner or an industrial magistrate may act as mediator in any industrial cause (s. 51) and may also convene a compulsory conference (s. 52).

S. 53 deals with payments for certain holidays and the matter of weekly hours. The Court or Board is given power in respect of modifying or altering the early-closing provisions of the Acts relating to factories and shops (s. 55). The Court or Board shall, before making any award or certifying any agreement, and on proceedings for the variation or cancellation of an award or agreement, take into consideration the probable economic effect of the agreement or award in relation to the community in general, and the probable economic effect thereof upon the industry or industries concerned (s. 56).

S. 57 deals with the matter of preference to unionists, and s. 58 prohibits discrimination in employment on account of membership or non-membership of an industrial association.

So far as is consistent with the maintenance of general peace the Court is to deal with major general principles, such as those concerning wages, hours of employment, overtime and holidays. Other minor matters are to be dealt with by the Board. Certain other matters the Court or a Board may refer to local shop committees, round-table committees, industrial councils or voluntary committees (s. 60). Further general powers are conferred upon the Court: (1) If it is proved to the Court by the production of the books used in connexion with the carrying on of an industry not of average prosperity, and by other evidence, that serious unemployment in an industry has resulted from the operation of an award or an industrial agreement, the Court on being satisfied that it is in the best interest of the industry, and after consultation with the Bureau of Statistics, may (*a*) cancel the award or industrial agreement; (*b*) or may exempt from the provisions of the award or agreement any employees, and permit of an agreement being made; (*c*) or make any award it thinks fit. (2) If it is proved to the Court that the employees of an industry are entitled to any benefit or bonus system, or payment under any profit-sharing or co-partnership, and it is satisfied that it is in the best interests of the industry concerned, and on the mutual agreement of employers and employees, the Court may exempt such employees from the provisions of the award or industrial agreement. (3) Provision is made for the Court in certain circumstances to refrain from making an award or to grant exemption from an award in the case of new industries (s. 62).

Part VI deals with the registration of industrial unions; Part VII with government employees; and Part VIII with breaches of awards and offences.

V. *Application of Act.*—Save as is provided in the Act, the Act applies to all callings whatsoever, and to all persons whomsoever.

But the Act does not apply to State children, or to persons engaged in domestic service, or as gardener, or handy man, or yardman in private houses, or to persons engaged in a managerial office, or to persons employed in work such as is usually carried on in farming operations on dairy farms, fruit farms or agricultural farms, or to casual workers, such as noxious weed destroyers, scrub cutters, ringbarkers, jackeroos, book- and store-keepers on stations. But included under the Act are persons employed in any capacity on farms in the sugar industry, or in connexion with shearing operations, or in butter factories, or cheese factories, or factories engaged in the manufacture of articles of commerce from primary produce. Domestic service includes an employee engaged in domestic duties in any hospital whose daily average of occupied beds does not exceed nine; also an employee engaged in domestic duties in a boarding house which provides accommodation for less than seven lodgers; also a cook on a station for less than four employees (s. 6).

Crown Lands.—The Lands Act Amendment Act (No. 15) makes several important amendments of the existing statutes. Part II makes provision for the stabilization of leases of cattle holdings. Part III enables selectors of perpetual lease selections and perpetual lease prickly pear selections to obtain freehold titles. Part IV also enables the holders of town, suburban and country perpetual leases to obtain freehold titles. Part V makes provision for the purpose of encouragement to the ringbarking of timber, and the clearing of useless vegetation on lands held under lease or licence from the Crown, with the object of increasing the productive capacity of the lands. A number of other amendments are made to the land laws of the State.

Mining.—The Petroleum Acts Amendment Act (No. 17) amends the Petroleum Acts, 1923 to 1927, in certain particulars. S. 10 of the principal Act has been amended by s. 4, adding to the persons who are qualified to apply for and hold a permit or a lease (1) any British company (as defined by the British Companies Act of 1886) registered, or which may hereafter be registered, under the British Companies Act of 1886; (2) any foreign company (as defined by the Foreign Companies Act of 1895) registered, or which may hereafter be registered, in Queensland, pursuant to the provisions of the Foreign Companies Act of 1895; or (3) any company registered, or which may hereafter be registered, in Queensland, pursuant to the Companies Acts, 1863 to 1913. Upon registration under the Companies Act concerned, any of the above companies shall be qualified and may apply for and hold a permit and lease notwithstanding the fact that all or any of the members, and/or shareholders of the company concerned are not persons qualified under paragraphs I and V of s. 10 of the principal Act. Several of the other sections are amended also.

The Mining Acts Amendment Act (No. 35) amends the Mining on Private Land Act of 1909, as amended by subsequent Acts, and also amends the law relating to miners' homesteads in certain particulars.

3. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Parliamentary Draftsman.*]

During the Parliamentary Session of 1929 a heavy volume containing fifty-six public Acts was added to the South Australian Statute Book. Considerable efforts were made to improve the form of the statutory

law by consolidation. Six purely consolidating Acts were passed embodying the law contained in sixty previous Acts and numerous portions of Acts. The matters dealt with were Crown lands, district councils, sewerage, succession duties, evidence and the Savings Bank of South Australia. The Evidence Act is an interesting measure which contains practically the whole of the statutory amendments to the law of evidence made during the nineteenth century. Among the matters dealt with therein are the rules relating to the competence and compellability of witnesses, the proof of public Acts and documents, and of bankers' books, telegraphic messages, foreign law, matters of history, science and geography, and the restrictions on publication of evidence. In addition to these purely consolidating Acts, a consolidating and amending Electoral Act and a new Matrimonial Causes Act which supersedes all existing statutory provisions on that subject were passed. I will refer to these two Acts later.

The following is a summary of the Acts of more general importance :

Criminal Informations.—Act No. 1909 simplifies the form of criminal informations brought before the Supreme Court. It follows closely the provisions of the Imperial Act, 5 & 6 Geo. V, c. 90 (the Indictments Act, 1915).

Conciliation.—Act No. 1942 was passed in response to a public demand for a law facilitating the settlement of legal disputes by conciliation. The Bill upon which the Act was founded, as originally introduced, contained no provision for the establishment of separate conciliation courts, but during the passage of the measure through Parliament provisions enabling the Governor to establish such courts were inserted. The original plan, which is carried into effect by ss. 3–7 inclusive of the Act, is to impose upon every court to which the Act applies the duty to endeavour to settle disputes coming before it by conciliation if, either from the nature of the case or from the attitude of the parties or their counsel or solicitors, the court is of opinion that there is a reasonable possibility of the matters in dispute being settled by conciliation. The court is empowered to interview the parties in chambers with or without their solicitors or counsel according as it thinks fit. If the court is able to settle the matter by conciliation it may make any order it thinks fit as to the costs of the proceedings and, upon hearing the solicitor for any party, may order taxation of costs as between that solicitor and his client. On any such taxation the taxing officer is empowered to reopen any agreement between the solicitor and his client and allow such sum as he deems just, having regard to the length of time actually occupied by the trial and the work actually done in the proceedings.

The courts to which the Act applies are the Supreme Court, the local courts and all courts of summary jurisdiction. The Act, however, does not apply to criminal proceedings instituted by or on behalf of the Crown, nor to any other proceedings for an offence instituted by a private person unless the offence is one in respect of which the court may order compensation to be paid to the injured party.

If any proceedings are settled by conciliation under the Act, the settlement is sufficient to support a plea of *autrefois acquit*. S. 8 of the Act provides that the Governor may by proclamation establish conciliation courts, define their jurisdiction, appoint fit and proper persons to formulate rules of procedure and in general make all necessary arrangements for the working and holding of such courts. This pro-

vision has not at the time of writing (December 16, 1930) been put into operation.

Matrimonial Causes. — The Matrimonial Causes Act, No. 1889, re-enacts, with important changes in procedure, the whole of the law relating to the Matrimonial Causes jurisdiction of the Supreme Court. The existing law and procedure is laid down by the Matrimonial Causes Act of 1867, which followed closely the Imperial Act of 1857, and under which matrimonial proceedings were instituted by petition to the court and citation. The Act provides that in future all matrimonial proceedings in the Supreme Court are to be instituted by action. The Rules of Court specially applicable to these proceedings are set forth in a Schedule to the Act and where no special provision is made the Rules of Court applicable to ordinary actions in the Supreme Court apply. It is provided that the statement of claim is to be endorsed on, and served with, the writ of summons. No affidavits verifying the statement of claim or any other pleadings are required; but a party is not allowed to plead an affirmative defence unless his counsel certifies that on his instructions there are reasonable grounds for setting up the defence. No adulterer is to be made a party to the action unless damages or costs are claimed against him. All persons, however, male or female, with whom adultery is alleged to have been committed must be given notice of the proceedings and any such person may intervene. The previously existing grounds for divorce as enacted by Act 1889 of 1928 have been substantially retained, and one additional ground has been added, namely, habitual and wilful failure of the husband during the five years preceding the commencement of the action to pay to his wife the maintenance which he has been ordered to pay by an order of any court, or has agreed to pay pursuant to any instrument providing for a separation between him and his wife.

Associations Incorporation. — The Associations Incorporation Act, No. 1912, provides a new and simplified procedure whereby associations such as churches, benevolent and charitable institutions, and associations for the purpose of recreation and amusement or for promoting and encouraging literature, science and art, or other like objects can become incorporated. The Act supersedes all previous statutory law on the same subject.

Easter.—The Easter Act, No. 1906, follows the Imperial Act 18 & 19 Geo. V, c. 35, and provides that in the calendar year next but one after the year in which the day appointed for the commencement of the Act falls and in all subsequent years Easter is to be the first Sunday after the second Saturday in April. The Act will not be brought into operation, however, until the other States of Australia and the Imperial Government have made arrangements for bringing similar legislation into force.

Municipal Corporations.—The Municipal Corporations Act Amendment Act, No. 1911, makes a number of amendments to the law relating to municipal corporations, of which two deserve special mention. The first concerns the appointment of the auditors of corporation accounts. Prior to the Act the auditors were elected by the ratepayers and no particular knowledge of auditing was required of them. The Act provides that auditors are in future to be appointed by the council of each municipal corporation, and every person appointed must satisfy the Auditor-General and an officer of the Highways Department as to his

qualifications for the office, and hold a certificate of competency known as the " Local Government Auditor's Certificate."

The other important matter dealt with in the Act is the power of municipal councils to sell land for non-payment of rates. Under the previous law land on which rates were overdue for three years or more could be sold by public auction pursuant to order of the Supreme Court obtained on petition of which one year's notice had to be given. The Act confers on municipal councils an additional power enabling them to sell, without order of the court, any land which has been " vacant and unoccupied " for more than five years and on which rates have been in arrears for that period.

Electoral Law.—The Electoral Act, No. 1929, is a consolidating and amending measure of some importance. It re-writes in a comparatively simple form the numerous and complex Acts relating to parliamentary elections, but in lieu of the old system of voting by crosses indicating the candidates voted for, it provides for what is commonly called " preferential voting." This system may be briefly described as follows :

The elector must by the figure 1 indicate on the ballot paper the candidate to whom he allots his first preference vote, and by the figures 2, 3, 4, etc., indicate the order of his preference for the other candidates. The elector must show the order of his preference for twice the number of candidates required to be elected plus one, or if the total number of candidates nominated does not amount to that number, then the elector must indicate the order of his preference for all the candidates.

At the scrutiny the first preference votes allotted to each candidate are counted. If any candidate has an absolute majority of first preference votes he is elected. If on the first count no candidate has an absolute majority of first preference votes, the ballot papers giving first preference votes to the candidate who obtained the fewest of such votes are dealt with, and the second preference votes on these papers are allotted to the candidates to whom they are given and added to the first preference votes of those candidates. This procedure is repeated until one candidate obtains an absolute majority of votes.

If more than one vacancy is to be filled (as always happens except in the case of a by-election) the second vacancy is filled in the same way as the first, but the votes given to an elected candidate are ignored.

Farmers' Debts.—The Debt Adjustment Act, No. 1939, is an echo of the economic depression caused to a large extent by considerable falls in the price of wool and wheat. Farmers and graziers in large numbers were faced by bankruptcy and a strong public demand arose for something in the nature of a moratorium to stay the hands of their creditors. The Debt Adjustment Act, framed on the lines of an Act of the same title on the Statute Book of the Province of Alberta, Canada, was the result.

The effect of the Act is shortly, that the financially embarrassed farmer (which term also includes " a grazier ") may apply to a government official known as the Director of Debt Adjustment for protection against his creditors. The Director, if he thinks it in the best interests of the farmer and his creditors to do so, may issue a certificate, the effect of which is to stay all pending legal proceedings against the farmer, to prohibit the institution of any new legal proceedings and to prevent any steps being taken to enforce any security against any property of the farmer.

The property of the farmer must be dealt with in accordance with the

directions of the Director of Debt Adjustment, who is under no obligation to render the whole or any part of the farmer's property available for payment of his debts. Any creditor may, however, apply in a summary way to a special magistrate for leave to proceed against the farmer, and the special magistrate may, if he thinks fit, permit the creditor to proceed. The Director of Debt Adjustment has power at any time to cancel a certificate, and thereupon the creditors of the farmer are entitled to put in train their ordinary remedies against him. The Act does not prevent any creditor from instituting any proceedings in respect of any secured debt contracted after December 31, 1929. Further, the Act is limited as to time in that no certificate can be issued after January 30, 1931, and no certificate will have any force or effect after March 31, 1932.

Pastoral Lands.—The Pastoral Act Amendment Act, No. 1937, is another Act which owes its origin to the economic difficulties of persons engaged in producing wool. It relates to the terms on which the State leases what are called pastoral lands. The pastoral lands of South Australia comprise all those lands which are outside the surveyed hundreds. None of these lands is alienated in fee from the Crown, but are let upon " pastoral " leases, the term of which is forty-two years. Most of the leases current in 1929 were due to expire in from sixteen to eighteen years, and the pastoralists were anxious to know what was to happen to them at the end of that time. They claimed that in order to justify expenditure on their leases at present it is essential that they should have some rights to an extension of their terms. The Pastoral Act Amendment Act therefore provides that any lessee holding a pastoral lease may, within one year from the commencement of the Act, apply to surrender his existing lease and obtain in lieu thereof a new lease for a term of forty-two years. The Pastoral Board, however, on behalf of the Government, can require an applicant for a new lease to surrender some part of the land comprised in his existing lease, and the amount to be so surrendered depends upon the classification of the applicant's land. All pastoral land is to be classified into three classes. Class A is to include all land which, in the opinion of the Pastoral Board, can carry not less than thirty sheep per square mile and has convenient rail and market facilities. Class B includes all land which can carry not less than thirty sheep per square mile but has not convenient rail and market facilities, or which while having convenient rail or market facilities cannot carry thirty sheep per square mile. Class C contains all other land. In return for the grant of a new lease, a lessee can be required to surrender one-third of the Class A land held by him, and one-eighth of Class B land, but cannot be required to surrender any part of the Class C land held by him.

In addition to these provisions for granting leases, the Act contains provisions for preventing the waste of artesian waters by a scheme of government licensing and control of artesian bores.

Motor Vehicles.—The Motor Vehicles Act, No. 1941, institutes a new system of taxing motor vehicles. Under a previous law the owner of a motor vehicle was required, before using his vehicle on any road, to pay a registration fee and register the vehicle ; and thereafter from year to year so long as he remained the registered owner of the vehicle, and irrespective of the question whether he used the vehicle on a road or not, he had to pay an annual tax. To put the matter shortly, the tax was based on ownership and not on use. The provisions of the Act abolish

both the initial registration fee and the annual tax and substitute in lieu thereof an annual registration fee, which must be paid before the vehicle can lawfully be driven on any road or street, but which need not be paid so long as the vehicle is not so driven.

Public Finance.—The principal purpose of the Public Finance Act, No. 1930, is to ensure that adequate provision for depreciation of the assets owned by the Government of the State will be made from year to year in the public accounts. The importance of this provision will be realized when it is remembered that the State owns some very large business undertakings such as the railways, waterworks, harbours, a sewerage system, a freezing works, and other enterprises the revenue from which goes into the General Revenue of the State. There has been in the past an almost complete failure to take account of the wasting nature of these assets, and a tendency to expend the whole of the revenue derived therefrom without setting aside adequate amounts for their replacement when worn out. The Act provides that the Treasurer of the State must pay annually out of the General Revenue such sum as the Auditor-General certifies in writing to the Treasurer to be necessary to be provided in each year for the depreciation of wasting assets. The sums set aside are paid to the Public Debt Commission for investment until required.

Town Planning.—In the year 1920 the Parliament of South Australia passed a Town Planning Act establishing a separate government department, whose duty it was to supervise and control the growth of new suburbs and townships. By 1929 it had become obvious that a separate existence of such a department could no longer be justified, as enough suburban and township land had been subdivided and sold in allotments to provide all the residential sites likely to be required for many years, and that the elaborate machinery and control of subdivision and re-subdivision needed simplification. An Act, No. 1945, was accordingly passed in 1929 repealing the Act of 1920 and substituting in its stead a simple system of controlling subdivision and re-subdivision of town lands. The Town Planning Department is abolished ; but the Act provides that an officer called the Government Town Planner is to be attached to the Lands Titles Registration Office, and before any instrument giving effect to a subdivision of land into allotments, or to a re-subdivision of any existing allotment, can be lodged for registration in the Lands Titles Office, the proposal must be referred to the Town Planner. It is his duty to see that the proposed subdivision conforms with the regulations as to the size of allotments, width of roads and other requirements, and also to refer the proposal to the local governing authority of the area where the land is situated, for its consent.

4. TASMANIA.

[*Contributed by* H. J. Solomon, Esq.]

Acts passed—102.

The 1929 session produced a total of 102 Acts, the greatest number in the history of the State, except for the year 1927, when 103 Acts were passed. In addition to usual matters of legislation, several Acts were found to be necessary as a result of serious and unprecedented floods in April, 1929. Four of the Acts mentioned below (Nos. 3, 20, 35 and 54)

are connected with these disasters: in addition there were Acts, *e.g.*, for further appropriations for repair of railway lines and bridges, etc. The most important Acts passed are noted below:

Anzac Day Observance.—Act No. 70 provides for the keeping of April 25 in each year as a national holiday—with a proviso against the devotion of such day to horse-racing at any time or to theatrical or picture shows until 6.30 p.m. An indication of the sanctity with which the day is regarded is perhaps given by the provision that for the purposes of the Licensing Act Anzac Day is subject to all the provisions of that Act relating to Good Friday.

Architects.—This Act (No. 42) provides for the registration of architects. A person's name may be removed from the register (among other reasons) if he accepts commission or favours from contractors engaged in the execution of any work designed or supervised by such architect.

Briseis Company Loan.—Act No. 54 provides a loan of £25,000 free of interest for five years (unless the company makes a net profit within such period: in such case one-third of the profit is to be paid to the Government and credited against interest) to the Briseis Tin and General Mining Company Limited, whose mine and works were devastated by the recent floods. The loan is to be expended by the company on reconstruction and double the sum borrowed must be so spent from the company's own funds.

Flood Expenditure Validation.—Act No. 35 validates (within defined limits) extraordinary payments which were made by public bodies during the exigencies caused by the floods.

Flood Sufferers' Dependents Pensions.—Act No. 20 provides pensions for the widows and children of persons who lost their lives in the floods.

Flood Sufferers Relief.—Act No. 3 empowers the Board of Management of the Agricultural Bank (*vide* the State Advances Act, 1907, 7 Ed. VII, No. 20) to grant relief to persons engaged in primary producing industries who have suffered loss as a result of the floods. Such relief is normally to be secured by a mortgage and is repayable within such period not exceeding ten years as the Board thinks fit. No interest is payable unless instalments are in arrear. The Board has limited powers to make unconditional grants in deserving cases.

Hydro-Electric Commission.—Act No. 83 places the State hydro-electric scheme under the control of an independent commission of three members, which is a body corporate with a separate banking account, into which all the receipts of the department are paid. Profits and losses, however, are taken or paid by the Consolidated Revenue Fund annually.

Legal Practitioners.—Act No. 74 provides that service under articles in any State of the Commonwealth of Australia may be counted as part of the service under articles required as a qualification for admission to practice in Tasmania.

Lurgurena Vesting.—Act No. 87 represents another (perhaps the final) step in the history of Tasmanian State Shipping. By this Act the vehicular ferry *Lurgurena*—the sole survivor of the State fleet of merchant ships—is vested in the Minister for Railways.

Marriage.—Act No. 17 authorizes the Registrar-General or any Registrar with the approval of the Treasurer to remit the payment of any fee under the Marriage Act, 1895, where circumstances justify such remission and to celebrate the marriage without payment of the fee.

Meat Industry Encouragement.—Act No. 82 imposes an annual rate of one penny per sheep upon all sheepowners. It establishes a Board of five members, one of whom represents the Agricultural Bureau, while the other four are elected by sheepowners in four separate districts. The duty of the Board is to " carry out and give effect to the purposes of this Act," *e.g.* by conducting freezing works, marketing, etc., of meat.

Mining.—This Act (No. 71) consolidates the mining law of Tasmania. Among its important provisions are the sections relative to prospecting on private land and possession thereof subject to payment of compensation to the owner.

Rabbits Destruction.—Act No. 94 sufficiently suspends the warfare on rabbits decreed by earlier Acts to permit the keeping of rabbits in captivity in accordance with prescribed conditions. This is designed to encourage the breeding in this State of fur-bearing rabbits.

State Highways Maintenance.—Act No. 86 applies the principle of the application of all motor taxes to the maintenance of such roads as are proclaimed to be State highways.

Statutory Authorities Borrowing.—This Act (No. 5) subjects the borrowing powers of public bodies constituted under statutory authority (*e.g.* Municipal Councils, Marine Boards, etc.) to the provisions that greater sums than £100,000 in a year can only be borrowed upon terms approved by the Treasurer of the State.

Traffic.—Act No. 51, designed as an indirect protection to the government railways, which have recently fallen on evil times, empowers the making of regulations prescribing maximum and *minimum* fares which may be charged for conveyance of passengers by public vehicles on any specific routes.

5. VICTORIA.

[*Contributed by* His Honour Judge Zichy-Woinarski, K.C., *and* S. H. Zichy-Woinarski, Esq., M.A., LL.B.]

Third Session of Twenty-ninth Parliament and First Session of Thirtieth Parliament. Acts (sessional) passed 46, and also the Consolidating Acts of 1928, being 184 Acts of general public importance (in force at the time) and published, with a full explanatory paper, in five large volumes, *Victorian Statutes*, 1929. This monumental work of consolidation was the task of Sir Leo Cussen, senior Puisne Judge of the Supreme Court, and for it he received, at the Bar of the House, the public thanks of Parliament.

Bail.—Act No. 3810 declares the power or authority of a justice or any other person to admit persons in custody to bail or to take deposits from such persons, or to take recognizances of those persons or of their sureties, is properly exercisable on a Sunday or any other day which is a *dies non juridicus*.

Judicial Proceedings (Regulation of Reports).—Act No. 3814, based on the Imperial Act 16 & 17 Geo. V, c. 61, regulates in the same manner as its prototype the publication of reports of judicial proceedings whether occurring in Victoria or elsewhere. Further, it prohibits the sale or distribution of newspapers or documents, wherever printed or published, containing matters or details of which the publication is prohibited.

Harbour Board.—Act No. 3815 amends the principal Act which had

created Harbour Boards for Gippsland Lakes, Welshpool, Warnambool, Port Fairy and Portland respectively, and in respect of these boards it allows any such board under its common seal to request the council of any municipality whose district is wholly or partly within the Harbour Board district to collect harbour board rates made after the dates of the request by the Harbour Board in respect of any rateable properties within such municipal district. Upon such request it is made compulsory on the council to collect such rates on behalf of the Harbour Board, and to apply them as specified in this Act. The Harbour Board is to make payment for this service, and the whole object of the Act is to reduce the cost to Harbour Boards in collecting their rates.

Statute Law Revision.—Act No. 3816 is a corollary to the Consolidating Acts passed in 1928, but which were not to come into force till a date to be proclaimed (and the date was December 12, 1929). It amends these Consolidating Acts in the manner specified in Schedule A; and in s. 4 enacts that every copy of any of the Acts amended by this Act issued after the commencement of this Act by the Government Printer of Victoria may be issued with the alterations, additions, omissions, insertions and substitutions provided for by this Act.

Police Offences (Race Meetings).—Act No. 3818 amends that part of the Police Offences Act, 1915, which deals with racecourses and race meetings. Firstly, as to the metropolitan area (*i.e.* the area within thirty miles of the General Post Office, Melbourne) it limits the number of meetings and closes certain racecourses. It limits the number of race meetings to the number to be allowed by the licence in any one year to certain specified racecourses set forth in the First Schedule. The existing racecourses of Aspendale, Sandown, Fitzroy and Richmond are not among those specified, and are to be closed down, and provision is made for compensation to the committee or other managing body of these last-named racecourses out of a fund to be established, the Racing Clubs Compensation Fund, and into which are to be paid certain revenues derived from the holding of race meetings in the metropolitan area, including the holding of additional race meetings not exceeding five in any one year permitted by the Chief Secretary at racecourses in such metropolitan area (s. 3).

S. 4 empowers the Chief Secretary to authorize clubs or persons conducting race meetings on racecourses set forth in the First Schedule to hold their meetings on any other land situate within the metropolitan area if he is satisfied that the existing racecourse is no longer suitable for racing.

Horse and pony racing is prohibited on Mondays, excepting only one race meeting for horse racing on the Williamstown racecourse in each year.

The Victoria Racing Club and all other metropolitan racing clubs are required (by s. 5) to pay annually to the chairman of the Victoria Racing Club one-half per centum of the gross revenue for distribution among the country racing associations in such proportions as the said chairman and a committee composed of representatives of the district associations recommend in the best interests of the sport of racing.

Secondly, as to racecourses in all parts of Victoria which are not within thirty miles of the General Post Office, Melbourne, not more than a total number of 400 race meetings for horse races, or 50 race meetings for pony races, or 50 race meetings for trotting races, are to be held

in any year on such racecourses. Picnic race meetings and mixed sports gatherings are to be excluded from such calculation (s. 6).

The number of meetings is limited to the number of meetings in the licence not being more, in the case of pony races, than four days in any one year or, in the case of horse races, more than twelve days.

Horse races or pony races at trotting race meetings is prohibited, and the holding, with the consent of the Chief Secretary, of picnic race meetings or of mixed sports gatherings is authorized, *i.e.* picnics or sports meetings at which not more than four races are to take place in one day for horses or ponies to be ridden by those who are not professional jockeys, and for prizes the total of which does not exceed £25 ; and the holding of deciding races between the winners of heats or divisions is forbidden.

By s. 7 the portion of Victoria outside the metropolitan area is divided into race meeting districts, and the Chief Secretary is empowered to fix the number of race meetings to be held annually in each district, and by the same section is established a Racecourses Licences Board which has the power and duty of allotting the race meetings annually among the racecourses in each district.

Further provision is also made for the holding of race meetings for charitable purposes in the metropolitan area in each year in excess of the statutory number of meetings for such racecourses by increasing to five the number allowed by the principal Act and by authorizing in addition the Victoria Racing Club one extra meeting for the V.R.C. Benevolent Fund Association.

Cultivation Advances.—Act No. 3819 follows on the lines of previous similar Acts.[1] It enables the Minister during the period ending on December 31, 1929, to make advances of seed and fodder, manure, building and fencing materials or money to farmers who would not be able without such aid to fallow or crop a farm, or to effect necessary improvements, or during the period before harvesting the next crop to continue working or residing on the farm.

Act No. 3827 is in the same terms as No. 3819, and makes similar provision for the period ending on December 31, 1930, with this addition only, that it gives in s. 14 power to the Governor in Council to raise £450,000 additional moneys for the purposes of the Act.

Dried Fruits.—Act No. 3841 empowers the Dried Fruits Board to permit in certain cases the marketing in Australia of a quantity of dried fruits in excess of the proportion marketable in Australia, and it also continues the Dried Fruits Acts in force until otherwise provided by law.

Entertainments Tax. — Act No. 3846 is divided into four parts. Part I provides the definitions and certain machinery. Entertainments is defined to include any exhibition, performance, lecture, amusement, game or sport for admission to which payment is made. The Commissioner of Taxes under the Income Tax Act (No. 3701) is made the Commissioner under the Act, and he is obliged to furnish to the Treasurer annually for presentation to Parliament a report on the working of the Act, and therein to draw attention to any breaches or evasions which have come under his notice.

Part II relates to the imposition of the tax, s. 8 imposing a tax in aid of the consolidated revenue on all payments for admission to any

[1] See, for example, *Journal of Comparative Legislation*, Third Series, vol. xi, pt. ii, p. 107.

entertainment at the rate of twopence where the price is two shillings, and where the price exceeds two shillings, twopence for the first two shillings and one halfpenny for every sixpence or part of sixpence by which the payment exceeds two shillings. The tax may be paid by the use of a stamp stamped on the ticket of admission, or in special cases through a barrier which automatically registers the number of persons admitted, unless other arrangements have been made with the Commissioner and adequate security lodged. The proprietor of the entertainment or his agent is declared to hold the tax collected by him as property of the Crown. S. 11 provides for the recovery of the tax in a competent court as a civil debt recoverable summarily; and s. 12 renders club members' season tickets liable to the tax in respect of the lump sum. Exemptions from payment of the tax are made in favour of entertainments where (*a*) the whole of the takings are devoted to philanthropic, religious or charitable purposes without any charge on the takings for any expenses of the entertainment, or (*b*) the entertainment is of a wholly educational character, or (*c*) the entertainment is provided for partly educational or partly scientific purposes by a society, institution or committee not conducted or established for profit, and the entertainment is not provided for the financial benefit of any person connected with the promotion of the entertainment or of any person employed or engaged by that person for the purpose of the entertainment.

Offences against the Act, with their consequent penalties, are created by Part III. S. 15 empowers any officer authorized by the Commissioner to enter any place of entertainment with a view to seeing whether the provisions of the Act are being complied with; it is made an offence to prevent or obstruct his entry, with a penalty of not more than £20. If any person is admitted in contravention of the Act, he is liable to a penalty of £5, and the proprietor to one of £50 (s. 16). By s. 17 any person who forges or tampers with any die or stamp, or sells or possesses any forged or tampered die or stamp, is declared guilty of felony and liable to a maximum imprisonment of fifteen years; and any person who makes paper in imitation of stamp paper, or who is in unlawful possession of any implement peculiarly used in the manufacture of such paper, is declared guilty of a misdemeanour and liable to imprisonment for three years. A drag net section (s. 20) renders liable to not more than one year's imprisonment any person who practises or is concerned in any fraudulent act or device not specially provided for with intent to defraud the Commissioner.

Part IV contains miscellaneous provisions; power to search premises under a warrant duly issued and seize property; and power to the Governor in Council to make regulations on specified matters, including a power of prescribing penalties of not more than £50 for any breach of the regulations.

Stamps (Betting Tax).—Act No. 3848 imposes certain stamp duties on bookmakers' licences or permits and on betting tickets issued on sports grounds. It requires every bookmaker who carries on his business on a sports ground (*i.e.* a ground within the meaning of s. 111 of the Police Offences Act, 1928) to hold a licence and imposes a duty of £2 on the licence or permit issued by promoters of sports on any sports ground in Victoria and of one penny on any betting ticket issued by any bookmaker or any sports ground. Notice of the nature and date of

any sports meeting is to be given not later than six days prior to the meeting by promoters of sports to the Comptroller of Stamps.

Motor Omnibus.—Act No. 3851 requires the licensing of any motor-car with seating capacity for not more than five passengers and used or intended to be used for carrying passengers for reward at separate and distinct fares for each passenger to be as "light motor omnibuses," and prescribes the fees for light motor omnibus licences (ss. 2 and 7). It specifies the particulars to be contained in an application for a light motor omnibus licence and authorizes the routes upon which only such motor omnibus may operate, *i.e.* anywhere in the State of Victoria excluding five specified routes (ss. 4 and 6).

Stamps.—Act No. 3852 amends the law and enacts that cash sale dockets for £2 or upwards issued or tendered to buyers of goods are to be stamped as receipts immediately on the occasion of the purchase (s. 2); it also amends the terms upon which receipts given without a stamp duty may subsequently be stamped (s. 3), and it increases the stamp duties payable on cheques and leases (s. 6).

And it provides that where two or more instruments being deeds of gift or settlement are executed by the same donor in favour of the same donee on the same day as or within twelve months after the day on which the first of such instruments is executed, the duty chargeable shall be at the rate provided in respect of the aggregate amount of the value of the property comprised in all the instruments (s. 8).

6. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq.]

Two sessions were held in 1929. The first lasted from March 21 till April 8, and was productive of only one statute of importance, namely an Act to adopt the redivision of the State into electorates for the return of members to the Legislative Assembly, as recommended by the Electoral Commissioners, acting under the Electoral Districts Act Amendment Act, 1928, which has already been reviewed.

The second session, being the fifth and last session of the thirteenth Parliament, was responsible for but little legislation. Forty-four statutes were passed; but as three of these were not actually enacted till after the commencement of the year 1930, they will not be included in this review. Of the remaining forty-one there are but few which call for any remark.

Divorce.—By Act No. 7 the Supreme Court is empowered, on pronouncing a decree for dissolution of marriage, to order the payment by the husband of weekly or monthly payments to the wife. The present measure will give the court power to increase the amount of any such payment, if satisfied that the husband's means have increased.

The Divorce Amendment Act, 1911, provided for the retention by a deserted wife of her Western Australian domicile. S. 3 of the Act under review supplements this by adding a provision that, for the purposes of such Act, a deserted wife's husband, who was domiciled in the State at the time of the desertion, shall be deemed to have retained such domicile, notwithstanding that in fact he has acquired a foreign domicile.

Easter.—The effect of Act No. 10 is that, from and after a date to be appointed by the Governor by proclamation, Easter Day will in every

year be the first Sunday after the second Saturday in April; but the date to be appointed must not precede the calendar year next but one after the commencement of the Imperial Act 18 & 19 Geo. V, c. 35.

Transfer of Land.—Under the Torrens system of registration of titles, great importance has always been attached to the production of the duplicate title on the presentation of any dealing for registration; but it has been often found impossible for a purchaser, at a sale by the sheriff under a writ of execution issued by a creditor of the registered proprietor, to locate the proprietor or to compel him to bring in the duplicate. It is provided, therefore, by this measure (No. 14) that the Registrar may register a transfer on such a sale without requiring the production of the duplicate; but he must first advertise notice of his intention so to do.

Agricultural Products.—Act No. 19 applies to agricultural, farm, orchard, garden and dairy products; and the purpose of the Act is disclosed by the third section, which provides that no person shall (*a*) sell any lot or portion of a lot of products, or any products contained in a package, unless the outer layer or shown surface of such products is so arranged, stacked or packed that it is a true indication of the fair average size, nature and quality of all the products in such lot or package; or (*b*) pack any products intended for sale in a package, unless the products are graded and packed as prescribed; or (*c*) sell any products contained in a package unless the provisions of the preceding paragraph (*b*) in relation thereto have in all respects been duly complied with; or (*d*) sell any lot or part of a lot of products unless the same is graded and arranged or stacked and marked in such manner as may be prescribed.

Inspectors appointed under this Act or the Plant Diseases Act, 1914, will be invested with sufficient powers to enable them to enforce observance of these provisions.

Cremation.—Act No. 22 provides for the regulation of cremation, and enacts that no person shall cremate, or be party or privy to the cremation of any human body elsewhere than in a licensed crematorium. An exception is, however, made in favour of Asiatics who are to be permitted to follow the custom of cremation in accordance with the deceased's religion, subject to any regulations made under the Act.

The power to grant licences to use crematoria is strictly limited, for they can only be issued to the trustees or controlling authorities of cemeteries.

The Act contains carefully framed safeguards, but there is nothing novel in them. A permit must be obtained from a registrar of deaths, who is forbidden to issue such permit unless he has been furnished a certificate (1) from each of two medical practitioners, one of whom shall have been in professional attendance on the deceased at or shortly before his death; or (2) from a medical practitioner who has made a *post-mortem* examination of the body, stating that the deceased died from natural causes, or unless a coroner who has held an inquest on the body certifies that the cause of death has been duly and sufficiently inquired into.

Power is given to the relatives to forbid a cremation; and the Attorney-General and all resident and police magistrates have a general power of prohibition, whenever they think that reasonable grounds exist for preventing any cremation being proceeded with.

Sandalwood.—As Western Australia is a large exporter of sandalwood, it has been deemed advisable to conserve the supplies and to give the Governor power to restrict, by Order in Council, the quantity of sandalwood that may be pulled or removed from Crown land and from alienated land.

It is further enacted (No. 27) that no person shall remove sandalwood either from Crown or alienated land except under licence granted by the Conservator of Forests, and there are strict limitations on the power to issue licences.

Companies.—The Co-operative and Provident Societies Act, 1903, is so loosely drafted as to permit, subject to a limitation on the interest that may be held by any one shareholder, of almost any trading company (other than one engaged in banking) being registered under it. The present measure (No. 28) has been passed in order to ensure, for the future, that co-operative societies shall possess certain precise characteristics. It is accordingly provided that after December 11, 1929, no society is to be registered under the Act of 1903, and that after that date no person, company or association is to trade or carry on business under any name or title of which the word "co-operative," or any word having a similar meaning, is part, or in any way to represent that its trade or business is co-operative; but this prohibition does not apply to a registered building society, a society registered under the Act of 1903, or a company registered as a co-operative company under the Companies Act, 1893, as amended by this Act.

The Act allows one year within which any company or association acting in contravention of this prohibition may bring itself into conformity or become registered as a co-operative company as therein provided.

S. 3 enacts that a company, society or association applying for registration and having in its name the word "co-operative" or any equivalent word, must include in its memorandum or articles of association special provisions to the effect (*a*) that the rate of dividend on the shares of the company shall not in respect of any year exceed an amount which is £5 per cent. per annum in excess of the Commonwealth Bank rate of interest for the time being on fixed deposits for two years; (*b*) that before declaring a dividend out of the profits for the then last financial year, the directors may provide for the payment of a dividend upon the shares which had been issued and were held by shareholders during any one or more of the three preceding financial years in respect of which no dividend has been declared—such dividend to be payable to the persons registered as owners of the shares at the date of the declaration thereof; (*c*) that all surplus profits in any year in which a dividend for such year shall be declared, after setting aside to the credit of any reserve fund such amount as may be authorized by the memorandum or articles of association, shall be distributed, by way of bonus, either in cash or bonus shares or debentures, in proportion to the business done by shareholders with the company or to the profits earned by the company on such shareholders' business; (*d*) that every shareholder shall have equal voting power regardless of the number of shares held by him.

These are the essential conditions which must be complied with in order that a company or society may be a co-operative company and registrable as such. It will be observed that the object of these conditions is to confine registration as co-operative companies to associations

which, like co-operative stores, apply a large proportion of the profits, after payment of interest on capital, in payment of dividends to members on the amounts of their purchases, and for which the legislation regarding co-operative societies was principally intended.

On the distribution of the reserve funds or other assets by a co-operative company, or on the winding up, voluntary or compulsory, of a co-operative company, no shareholder is to receive in payment of his shares any amount exceeding the capital paid up in respect thereof, with dividends (if any) due and any other moneys to which he may be then entitled under paragraph (*c*) quoted above.

Alsatian Dogs.—The purpose of Act No. 34 is sufficiently indicated by s. 2, which enacts that no person shall be the owner of, or keep or have in his possession or under his control, any dog of the Alsatian wolf-hound species, if such dog is of or over three months of age and has not been effectively sterilized.

7. PAPUA.

[*Contributed by the* Hon. Mr. Justice R. T. Gore.]

Nine Ordinances were passed during the year 1929 of which the most important are mentioned hereunder:

Stamp Duties.—No. 5 amends the principal Ordinance in order to include among the documents liable to stamp duty the memorandum and articles of association of a company about to be registered under Parts 1, 2 or 5 of the Companies Ordinance, and a statement of the amount of any increase of registered capital of any company already registered under Parts 1, 2 or 5. The duties payable are shown in s. 4.

Buildings.—No. 7 regulates building within towns and provides for the demolition of certain buildings. A Board is created with full powers under the Ordinance, but provision is made for an appeal to the Lieutenant-Governor from any determination of the Board. Persons are prohibited from erecting or altering a building except in the position and in accordance with plans and specifications approved by the Board. Any building erected or altered otherwise than in accordance with the plans and specifications or position approved must be demolished or altered to the satisfaction of the Board. Unsightly or dangerous buildings may be directed to be demolished, altered or repaired. The Board may carry out the demolition, alteration or repairs of buildings at the expense of any owner who fails to obey the notice of the Board. A right of inspection is given to authorized persons between prescribed hours. Penalties are provided.

Mineral Oil and Coal.—No. 8 amends the principal Ordinance by making some minor alterations in the existing law as well as important additions. "Gross value of crude oil," which means "the market value of crude oil at the bore," is inserted as a new definition. The Lieutenant-Governor is to decide on a report from the licensee of the discovery of mineral oil or coal as to whether the mineral oil or coal is payable within the meaning of s. 4 of the principal Ordinance. No royalty is to be charged on oil which the lessee satisfies the Lieutenant-Governor was used by the lessee for production purposes or was unavoidably lost. The Warden sitting in open court is to decide a dispute as to the market value at the bore of crude oil won by a lessee.

A new section is inserted designed to protect the public against what

are commonly known as " wild cat " operations. For the purposes of the section the term " prospectus " is defined. Every prospectus directly or indirectly issued or published must be dated and signed by every director or proposed director or by the agent of a director as well as by every promoter and vendor. The issue or publication of any prospectus is made illegal unless or until the conditions set out in the Ordinance have been complied with. A penalty of £5 per day from the date of the prospectus until an approved copy is filed with the Director of Mines is provided for non-compliance with any of the requirements of the section dealing with the issue and publication of the prospectus. The Lieutenant-Governor may institute proceedings for the recovery of the penalty by complaint under the Justices Ordinance, but this provision is not to be construed to prevent the exercise by the Lieutenant-Governor or any aggrieved person of any other remedy. The provisions dealing with the control of a prospectus are in addition to and not in substitution for those in the Companies Ordinances having for their object the control of prospectuses generally.

No. 9 also amends the principal Ordinance in minor particulars.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., LL.M., *Parliamentary Law Draftsman.*]

Acts passed : Public and General—34 ; Local and Personal—19 ; Private—5.

In every session since the conclusion of the Great War until the Session of 1928 (during the whole of which period the " Reform " Party which came into office in 1912 had continued in office, first under the leadership of the late Right Hon. W. F. Massey, and afterwards under his successor, the Right Hon. Gordon Coates, M.C.), the New Zealand Parliament has shown remarkable legislative activity. At the triennial elections of 1928, the " Reform " Government was defeated, and subsequently the Right Hon. Sir Joseph Ward, who had been in office as Prime Minister prior to 1912, again became Prime Minister, as leader of a new political party known as " the United Party." As was to be expected, the first working session of the new Parliament, with a new political party in office, produced a comparatively small legislative harvest. Only 34 Public Acts were passed, and of these many do not call for mention here, as they deal entirely with matters of local interest. Of the remainder, the most noteworthy, from the point of view of general interest, is probably that which has made provision for the establishment of a Solicitors' Fidelity Guarantee Fund. Of most local interest are the Taxation Acts, reintroducing in modified form the taxation of farmers' incomes and making other changes in the law relating to land-tax and income-tax ; in matters affecting the administration of the Government, the establishment of a Transport Department is an instalment of the new Government's policy for the co-ordination of transport activities ; in matters of social importance, the Marriage Amendment (authorizing marriages between widowers and the nieces of their deceased wives and marriages between widows and the nephews of their deceased husbands) is of some importance, as indicating the modern attitude towards proposals which were formerly rejected on grounds of religious rather than of merely

social significance; the Rest Homes Act marks a further stage in the advance of that kind of social legislation which compels the recipient to accept its benefits. The following review deals in some detail with the Acts above referred to, and with the more important of the other Acts passed during the 1929 Session.

Unemployment.—The recurrence of unemployment in New Zealand is indicated by the extension for one year, by No. 2 (that is, until June 30, 1930) of the Local Authorities Empowering (Relief of Unemployment) Act, 1926.[1]

Rent Restriction.—The Rent Restriction legislation, originally passed as a war measure in 1916, but which has since undergone many changes of substance, has been again extended by the Rent Restriction Continuance Act (No. 4). In its present form, the scope of the law is very limited, but every attempt to repeal it meets with vigorous opposition from the champions in Parliament of the poorer classes of the community. The Act extends the measure until August 1, 1930. The limited operation of the legislation at present in force is dealt with in the Review of legislation for 1927.

Summer Time.—New Zealand's first trial of "summer time" was made in 1927-8, when for the period between the first Sunday in November and the first Sunday in March the clock was an hour in advance of standard time. The experiment met generally with the approval of townspeople, but in the country districts the change met with considerable opposition, though it was freely asserted by the supporters of the experiment that, independently of the Act, activities in the country were regulated by the sun rather than by the clock. The opposition of the country people was so definitely expressed, however, that in the following year (1928–9) the difference between "summer time" and standard time was reduced to half an hour. By the Summer Time Act, No. 7, the period of summer time is fixed as the period between the second Sunday in October and the third Sunday of the following March; during that period the clock is thirty minutes in advance of standard time. The noteworthy feature of the last Act is that it is permanent, and it is quite unlikely that the old system will be reverted to. Any future changes are likely to affect only the period of operation of "summer time," or the extent of the difference between "summer time" and standard time.

Land Laws.—One of the most important of the "policy" Acts promoted by the new Government was the Land Laws Amendment Act, No. 8. By this Act, a Lands Development Board is constituted; the main functions of the Development Board are, firstly, to advise the Government as to works to be carried out on unoccupied Crown lands to render them suitable for profitable occupation, and, secondly, to authorize the making of loans to Crown tenants for the purpose of assisting them to undertake major developmental works.

Under the first part of the scheme the Minister of Lands, before any Crown lands are made available for selection by prospective tenants, is empowered to carry out such improvements as drainage, reclamation, roading, fencing, clearing, grassing and the erection of buildings.

Similar provisions are made with respect to lands acquired by the Crown from private owners under the "land for settlements" scheme.

The financial provisions incident to the scheme provide for the borrow-

[1] See *Journal of Comparative Legislation*, Third Series, vol. x, pt. ii, p. 101.

ing, for the purposes of the Land for Settlements Account, of an additional sum of £5,000,000.

Aviation.—The Local Authorities Empowering (Aviation Encouragement) Act (No. 9) empowers certain classes of local authorities (namely, Borough Councils, County Councils, Harbour Boards and the more important Town Boards) to establish and maintain aerodromes. The authority is generally on the lines of s. 8 of the Imperial Air Navigation Act, 1920 (10 & 11 Geo. V, c. 80).

All local authorities, without exception, are empowered to contribute towards the funds of such aviation authorities as are recognized for the purposes of the Act by the Minister of Defence ; to avoid extravagant expenditure the previous consent of the Local Government Loans Board is required, however, in the case of anything but very small contributions.

Any local authority, having exercised its statutory power of establishing an aerodrome, has the additional power of making by-laws in relation, *inter alia*, to the charges to be paid by aviators, the admission of the public to the aerodrome or to adjacent lands controlled by the local authority, the safety of persons using the aerodrome and the general public, and generally for the administration of the aerodrome.

Except in the case of the four principal centres, loan moneys cannot be utilized for the establishment of an aerodrome except with the concurrence of the ratepayers expressed at a poll.

Marriage Amendment.—By the Marriage Amendment Act (No. 10) existing marriages between a man and the niece of his deceased wife or between a woman and the nephew of her deceased husband are validated, and similar marriages are authorized for the future. As long ago as 1905 a validating Act was passed, in respect of marriages that had then been irregularly solemnized, but that Act did not remove the bar in respect of similar marriages that might be entered into in the future.

Customs Taxation.—By the Customs Amendment Act (No. 11) the rate of primage duty on goods imported into New Zealand was increased from 1 to 2 per cent. of their values. In the case of certain goods (principally food-stuffs and fertilizers) this increase was temporary, and the former rate of 1 per cent. was reverted to on April 1, 1930.

Land and Income-tax.—Except for a brief period during and immediately following the war, income derived from the use of land for agricultural or pastoral purposes has (with certain minor exceptions) been exempt from income-tax. Faced with the necessity of increasing the public revenues, the new Government directed its attention to this exemption, and the Land and Income-tax Amendment Act (No. 12) has removed the exemption in the case of farmers occupying agricultural or pastoral lands of an unimproved value [1] of £14,000 or more. From the amount of income-tax assessed in any year in respect of the income derived by a tax-payer from the use or occupation of land, there is deductible an amount equal to the amount of land-tax payable by him in respect of the same land, and the residue is the amount of income-tax actually payable.

Complementary to the provisions above referred to for the assessment of farmers for income-tax, provision is made for the imposition of a new

[1] The term " unimproved value " is adopted from the Valuation of Land Act, 1925. Speaking generally, the unimproved value is the difference between the market value of the land with the improvements thereon, and the market value of such improvements.

land-tax designated " special land-tax," on persons owning farm-lands of an unimproved value of not less than £14,000. The amount of special land-tax is in every case fixed by reference to the amount of the land-tax otherwise payable (in the Act referred to, for purposes of distinction, as ordinary land-tax) and in no case does the special land-tax payable by a tax-payer exceed his ordinary land-tax for the same year.

To avoid the infliction of undue hardship, the Act has made provision for the appointment of a Commission of three members, to consider applications for relief from special land-tax and to make recommendations to the Government.

Patents.—The Patents, Designs and Trade-marks Amendment Act (No. 14) was passed for the purpose of incorporating in the law of New Zealand the substance of the Imperial Patents and Designs (Convention) Act, 1928 (18 Geo. V, c. 3).

Law Practitioners.—The Law Practitioners Amendment (Solicitors Fidelity Guarantee Fund) Act (No. 15) is one of the most noteworthy Acts of the year's legislation. It was prepared as a Government Bill, at the request of the New Zealand Law Society, and representatives of that Society on frequent occasions since the Act was passed have expressed their indebtedness to the Attorney-General (Sir Thomas Sidey) for the support he afforded to the proposal with his colleagues in Cabinet and in the passage of the Bill.

The Act provides for the establishment of a Guarantee Fund, to be provided by annual contributions to be paid by all solicitors engaged in the practice of their profession either in partnership or on their own account.

The yearly subscription (being not less than £5 or more than £10) is payable when the solicitor takes out his annual practising certificate. If at any time the fund is insufficient to meet the claims on it an additional levy may be imposed by the Council of the New Zealand Law Society, such levy not to exceed £10 in any year or £50 during the whole course of a solicitor's practice. The fund is declared to be the property of the New Zealand Law Society and is administered by the Council of that Society.

The purpose for which the fund is established is that of reimbursing persons who may suffer pecuniary loss by reason of the theft by a solicitor, or by his servant or agent, of any money or other valuable property entrusted to him, or to his servant or agent, in the course of his practice as a solicitor, including any money or other valuable property as aforesaid entrusted to him as a " solicitor-trustee."

For the purpose of safeguarding the fund, additional disciplinary powers are conferred on the New Zealand Law Society and on District Law Societies, particularly with respect to the investigation of the accounts of practising solicitors.

Town-planning.—By the Town-planning Act, 1926, an obligation to prepare town-planning schemes not later than January 1, 1930, was imposed on the Councils of all larger boroughs. It has been quite impossible to comply with this obligation, and by the Town-planning Amendment Act (No. 28) the date has been extended by two years.

In the Act of 1926 the term " town-planning scheme " was used to denote a scheme relating exclusively to the area within the boundaries of a borough ; the extension of a scheme into the district of an adjoining county was referred to as a " regional scheme "—(a regional planning

scheme in this sense being thus subordinate and complementary to a town-planning scheme). The use of the term "regional scheme" was required, however, for a larger purpose, namely, to denote a scheme prepared for a large area comprising all those districts (both boroughs and counties) that have an immediate community of interest. The term "extra-urban planning scheme" was therefore introduced, and used to denote that complement to a town-planning scheme which concerns the rural area adjoining the borough boundaries. The term "regional planning scheme" was then applied in its truer technical sense to denote the scheme for a large area, the particulars to be shown in any such scheme being limited to those matters (*e.g.* highways) directly affecting the whole region. An essential distinction between the regional scheme and the town-planning scheme is that the former is a model, the adoption of which is not compulsory. In the case of an approved town-planning scheme the local authority concerned is obliged to adhere to it (in carrying out developmental works, etc.) unless and until it is duly altered in accordance with the 1926 Act.

Rest-homes.—The Rest-homes Act (No. 31) is expressed to be "an Act to make provision for the Establishment and Maintenance of Rest-homes for Destitute Persons who by reason of age and infirmity are unable to take proper care of themselves." There is in the Dominion excellent provision for the establishment of public hospitals and of public charitable institutions, supported by local rates subsidized out of the Public Account. In addition, religious and charitable organizations maintain institutions for the maintenance and treatment of destitute, aged, infirm or sick people. There is, however, a class of the community the members of which refuse to accept the relief that is available for them, or who, having entered one of the existing types of institutions, refuse to conform to the rules. The result has been that many people, who are not in any active sense offenders against the law, have had for their own protection to be committed to prison, on the ground of being without proper means of support. Many old people, too, whose faculties have begun to fail, have been committed to mental hospitals, although they have not been suffering from mental aberration or abnormality but merely from decay incident to old age.

The Rest-homes Act provides for the establishment by the State of institutions to be known as "rest-homes"; and also provides for the recognition of certain privately conducted institutions as "rest-homes." Admission to a rest-home is by way of an order made by a stipendiary magistrate, made either on the application of the person concerned or on the application of some reputable person, though authority to admit a person without an order is given to the superintendent of any rest-home. In the cases last mentioned the magistrate makes his investigation and order after the fact of admission, the relevant papers being transmitted to the magistrate by the Superintendent.

The essential difference between a rest-home under the Act and existing charitable institutions is in the fact that inmates of rest-homes may be detained against their wills if necessary, for the period mentioned in the magistrate's order. The establishment of a sufficient number of rest-homes will remove the painful necessity of sending to prison or to a mental hospital persons of a class for whom such institutions are not intended or suited. The transfer from the mental hospitals of persons there by reason of mental infirmity arising from age or the decay of their faculties will

relieve congestion and will afford a better opportunity for doctors and nurses to carry out their proper duties of endeavouring to restore to mental health those who are committed to their charge because of mental aberrations.

Transport.—The Transport Department Act (No. 32) establishes a new Department of State, known as the Transport Department. The new Department is charged with the administration of the Motor Vehicles Act, the Motor Omnibus Traffic Act and other enactments relating to motor-vehicular traffic. The proposals for the constitution of the Transport Department were originally contained in a Transport Law Amendment Bill, which dealt, *inter alia*, with matters relating to the licensing of motor-vehicular services (including motor omnibuses, long-distance service cars and taxis). This larger Bill was not proceeded with, but it is probable that the Bill in a modified form will be again introduced; if and when it is passed, the time will be ripe for a consolidation of the numerous Acts that now deal with the registration, licensing, taxation and use of motor vehicles. Associated with these matters are the construction and maintenance of main highways, for which much of the customs and other revenue derived by the State from motor vehicles and from motor spirits has been appropriated by statute.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* P. A. McElwaine, Esq., K.C., *Attorney-General.*]

The chief legislative event in 1929 was the promulgation on May 1 of the new Letters Patent revising the constitution of the Legislative Council. The nominated members are increased from eleven to thirteen; the European elected members are reduced from seven to six; three Indian elected members replace one Indian nominated member, and three Fijian members selected by the Governor from a list submitted by the Great Council of Chiefs replace one Fijian member formerly selected.

The qualifications of Indian electors and elected members are lower than those required in the case of Europeans.

There are separate European and Indian electoral rolls.

During 1929 thirty-nine Ordinances were passed, of which the following are the principal:

Education.—Ordinance No. 1 replaces older legislation. The Board of Education has a general supervision over education. Provision is made for District School Committees. All schools must be either registered or recognized, the former alone being eligible for grants-in-aid. All schools are open for inspection, the number and qualification of teachers and the books of secular instruction are subject to the approval of the Board of Education. In registered schools the curriculum (which includes agricultural and manual instruction) shall be in conformity with regulations to be made by the Board of Education. All teachers must be registered or recognized. Certificates of registration or recognition of schools or teachers are liable to cancellation for sufficient reason.

Districts may be proclaimed in which school attendance is compulsory. The Board has substantial power to make regulations subject to such regulations being approved by the Governor in Council.

Native Dealings.—Ordinance No. 8 provides that a District Commissioner shall satisfy himself that a native understands a contract to which he is a party before the contract is registered.

Oil Mines.—Ordinance No. 10 provides for the issue of exploration licences and for the leasing of native lands and for the acquisition of freehold or leasehold lands for the purposes of oil leases.

Prevention of Fires. —Ordinance No. 12 makes the duty of assisting to extinguish fires outside a municipality a public one: hitherto the duty has been imposed on Fijians alone, though under certain repealed Ordinances indentured and immigrant labourers were obliged to assist.

Prisons.—Ordinance No. 17 requires inquests to be held on every prisoner who dies in a jail.

Identification of Prisoners.—Ordinance No. 18 provides for the identification of prisoners by finger-prints. Previous convictions in the Colony or in any part of His Majesty's Dominions, Protectorates or Mandated Territories may be proved by the identification of finger-prints certified to be those of the person previously convicted with the finger-prints of the accused person. Finger-prints taken on arrest are to be destroyed if the accused is acquitted.

Supreme Court.—Ordinance No. 19 repeals s. 20 printed by error in the last Revised Edition. The legal work which may be done for fee or reward by persons who are not admitted as lawyers in the Colony is restricted. Provision is made for the administration through the Supreme Court of workmen's compensation awarded by courts of Great Britain or the Dominions when the beneficiaries reside in Fiji. This accords with 15 & 16 Geo. V, c. 84.

Interpretation and General Clauses.—Ordinance No. 20 is modelled on the Tanganyika Interpretation Ordinance, 1928.

Noxious Weeds and Diseases of Plants.—Ordinance No. 21 regulates the importation of plants, the destruction of injurious plants and the planting on land declared to be infected with plant disease.

Fiji Museum.—Ordinance No. 22 provides for the constitution of the Fiji Museum. The Ordinance is based on the Imperial War Memorial Act, 1920.

Licences.—Ordinance No. 25 provides for the issue to British ships of wholesale and retail store licences. Ships cannot trade under the licence in a proclaimed harbour. Bank agencies not being substantive branches of a bank can be licensed for a fee of £2 10*s.* per annum.

Forgery.—Ordinance No. 28 is a consolidation of the Acts of 1861 and 1913. Hitherto the former only was in force in the Colony.

Matrimonial Causes.—Ordinance No. 30 enables a wife to obtain a divorce on the adultery of her husband. The Ordinance is modelled on the English Act of 1923.

Sinking of Hulks.—Ordinance No. 31 regulates the deliberate sinking of old ships in the neighbourhood of the Colony. The intention is to protect submarine cables from damage.

2. WESTERN PACIFIC.

i. GILBERT AND ELLICE ISLANDS COLONY.

Ordinances passed—10.

Native Passengers.—No. 1 regulates the carriage by sea of native passengers and makes it unlawful to carry native passengers on board any vessel plying between any of the islands of the Colony without a licence.

Summary Conviction.—No. 2 makes provision for the punishment on summary conviction of certain offences.

Dogs.—No. 3 provides for the registration of dogs, and the destruction or control of dangerous dogs.

Plants.—No. 5 governs the importation of plants into the Colony.

Maintenance Orders.—No. 6 amends the principal Ordinance and provides that when the High Commissioner is satisfied that reciprocal provisions have been made by any British possession or protectorate for the enforcement of orders made by the courts of the Colony, the Ordinance may be extended thereto by proclamation.

Quarantine.—No. 8 is a comprehensive Ordinance dealing with quarantine and repeals the Quarantine Regulations of 1909 and 1913.

Pensions.—No. 10 regulates pensions, gratuities and other allowances granted in respect of offices held in His Majesty's Civil Service in the Colony.

ii. BRITISH SOLOMON ISLANDS PROTECTORATE.

King's regulations enacted—7.

Plants and Seeds Control.—No. 2 controls the importation of plants and provides for the eradication of noxious weeds.

Native Adultery.—Under the principal Regulation, No. 7 of 1924, native adultery was punished by a fine of £5 or in default by imprisonment with or without hard labour for any period not exceeding three months. The present Regulation, No. 3, increases this punishment to £10 and six months respectively, and adds a further alternative of imprisonment for a maximum period of twelve months and a minimum of three months without the option of a fine.

A new section is added giving power to the next of kin to prosecute in certain cases.

Malaita Indemnity.—No. 4 provides for the continuation of the indemnity conferred by the Detention of Malaita Natives Regulation, 1928.

Maintenance Orders.—Regulation No. 6 is similar to Ordinance No. 6 of 1929 of the Gilbert and Ellice Islands Colony.

Execution of Criminals.—No. 7 defines the procedure to be followed on confirmation of death sentences by the High Commissioner.

iii. KINGDOM OF TONGA.

Laws passed—9.

False Statements.—By No. 7 false statements with reference to births, deaths, marriages and other matters are penalized by a fine of £50 or imprisonment for two years or both.

Medical Services.—No. 8 provides for the regulation and management of government hospitals, dispensaries and the public medical service.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* CHARLES W. H. LANSDOWN, ESQ., K.C., *Senior Law Adviser to the Government of the Union.*]

Finance.—Supply for the financial year 1929–30 was voted in respect of Railways and Harbours expenditure by Acts No. 7, 24 and 26, and in respect of expenditure on all other State departments by Acts Nos. 6, 23 and 25. Additional appropriation for the year 1928–29 was made in respect of Railways and Harbours expenditure by Act No. 5, and of expenditure in other State departments by Act No. 4. Unauthorized expenditure in the year 1927–28 was legalized in respect of the Railways and Harbours Administration by Act No. 2 and of other departments of State by Act No. 1.

The rates of normal income-tax and of super-tax in respect of the year of assessment ended on June 30, 1929, are fixed by Act No. 29, which also amends the Income-Tax Act, 1925, to provide for deductions from taxable income in respect of the value of certain articles used by the taxpayer in his trade which had been scrapped, and in respect of money spent on certain farming improvements. The abatements allowed a taxpayer in respect of certain dependents are extended by this Act, and the maximum age of such dependents within the meaning of the Act is raised from 18 to 21 years.

Act No. 27 provides *inter alia* for the disposal of certain surplus revenue in the Revenue Account on March 31, 1929; the basis upon which provincial personal income-tax is to be assessed; the exemption from stamp duty of certain instruments executed by local authorities; the enlargement of the sphere within which certain retiring benefits are payable to certain civil servants; and the computation of the retiring benefits of judges of the Natal Native High Court and of certain commissioned officers of the South African Permanent Force of the South African Police.

Act No. 21 provides for the discharge of certain irrigation boards from certain liabilities, for the alteration of their areas, for the adjustment of their finances, and for the ratification of certain irrigation rates.

Act No. 28 authorizes the payment of certain pensionable benefits to the persons designated to the schedules thereto.

Customs and Excise.—Act No. 14 enacts with certain qualifications that the products of the soil or of the industries of Mozambique shall, on importation into the Union, not be subject to other or higher duties or charges than those which are or may be levied on like products of any other country. It further provides that customs duty payable upon goods subject to *ad valorem* duties imported into the Union ex customs warehouses or ex bonded warehouses within the district of Lourenço Marques shall be assessed on the value of the goods in the country whence exported to Lourenço Marques at the time of exportation.

Act No. 31 amends in certain respects the customs tariff and the laws relating to excise.

Railways and Shipping.—Act No. 8 authorizes the construction and equipment of certain lines of railway, the deviation of a certain line of railway and the closing of a certain line. It further ratifies an agreement entered into by the Railways and Harbours Administration with

a certain corporation for the construction, equipment, working and maintenance of a line of railway for the development of a certain mineral industry.

Act No. 3 provides for the alteration of the route of the line of railway authorized by Act No. 33 of 1925 to be constructed from Parys to Vredefort.

Act No. 16 repeals, in so far as ships registered in the Union and owned by the Union Government are concerned, ss. 557 to 564 inclusive of the Imperial Merchant Shipping Act, 1894, and the whole of the Imperial Merchant Shipping (Salvage) Act, 1916. It is to come into effect on a date to be fixed by the Governor-General by Proclamation in the Gazette.

The provisions thus repealed governed the matter of salvage by His Majesty's ships. In particular s. 557 of the enactment of 1894, read with the enactment of 1916, precluded final adjudication upon salvage claims by the commander or crew of His Majesty's ships, other than tugs or those specially equipped for salvage, unless the consent of the Admiralty to the prosecution of the claims were approved. The intention and the effect of the amendment is to enable the Union Government in its Railways and Harbours Administration to claim for salvage service rendered by its ships, tugs and other craft.

Act No. 20 provides for the establishment of a Board to advise the Government on matters affecting ocean transport to, from or between Union ports, including more particularly questions regarding freight rates and classifications, differential charges, and differential or unfair treatment by any shipowner of any shipper in respect of the allocation of space accommodation or any other matter. The Board is to consist of six members to be appointed by the Governor-General, three of whom are to be nominated by the Governor-General, and of the remaining three one is to be nominated by the Association of Chambers of Commerce, one by the Federated Chambers of Industries and one by the South African Agricultural Union.

Native Administration.—Act No. 9 effects a number of amendments of the Native Administration Act No. 38 of 1927 which experience in the working of the measure had dictated as necessary or desirable, and in addition provides for the establishment of Native Divorce Courts. Under this latter provision the Governor-General may establish courts with jurisdiction to hear and determine suits of nullity, divorce and separation, between natives domiciled within their respective areas of jurisdiction in respect of marriages, and to decide any question arising out of any such marriage which is not cognizable by a Native Commissioner's Court. The area of jurisdiction of these Native Divorce Courts is to coincide with those of the Native Appeal Courts established under Act No. 38 of 1927. Each such court is to be a court of law and to consist of the President of the Native Appeal Court of the area, who may, in his discretion, summon to his assistance two persons holding office as magistrate to sit and act with him as assessors in an advisory capacity on questions of fact. From the judgment of a Native Divorce Court an appeal lies to the provincial or local division of the Supreme Court having jurisdiction. The creation of these Native Divorce Courts does not divest the Supreme Court of any of its jurisdiction in matrimonial causes.

Amongst the matters in the amendments effected to Act No. 38 of 1927 are included an improved definition of the term of marriage, the

more clearly to demarcate the ordinary native customary union from the legal marriage ; and provision for the clearer demarcation of cases in which native successions are dealt with in manner provided in Act No. 38 of 1927 rather than under the Administration of Estates Act No. 24 of 1913.

Land Legislation. — Act No. 19 repeals s. 6 of the Agricultural Holdings (Transvaal) Registration Act No. 22 of 1919 by substituting a new section under which provision is made for the cancellation of certificates and, subject to qualifications imposed by the Minister of Lands, the consequent liberation of the land from the conditions imposed under s. 2 (1) of Act No. 22 of 1919. Provision is made for total release of prior conditions and the substitution of other conditions where any land thus dealt with is to have a township established upon it.

Act No. 12 supplements the Mission Stations and Communal Reserves Act No. 29 of 1909 of the Cape of Good Hope by adding provisions which have been found in practice to be necessary, facilitating the succession to land, the owners of which have died, and providing better means for the cancellation of the rights of registered occupiers or owners of land and facilities for the alienation of separate pieces of land into which a lot or holding is divided.

Food, Drugs and Disinfectants.—Act No. 13 consolidates and amends the laws for regulating the labelling of foods and drugs and preventing the importation or sale of unwholesome or adulterated or incorrectly or falsely described foods and drugs, and for regulating the labelling of disinfectants and preventing the importation or sale of disinfectants which are incorrectly or falsely described.

The administration and enforcement of this comprehensive measure is placed under the administration of the Department of Public Health, but local authorities are given definite rights under the Act within their respective areas. The Minister may indeed, at the request of the local authority, empower it to carry out and enforce within its area of jurisdiction and through its duly authorized officers the whole or any specified portion of the Act.

A number of provisions of the Act are addressed to the question of procedure. Amongst the matters thus dealt with are the methods of procuring and forwarding samples for analysis (s. 21) ; the institution of proceedings, and time limitations for prosecutions (ss. 24 and 27) ; presumptions and onus of proof in prosecutions (s. 27) ; and the incidence of criminal liability, including important provisions as to vicarious responsibility (ss. 28 to 30). In this last-mentioned connexion the Act imposes criminal responsibility upon a principal or master for the unlawful act or omission of his manager, agent or servant, unless he proves to the satisfaction of the court that the agent or servant was acting without his connivance or permission ; that all reasonable steps were taken by him to prevent any act or omission of the kind in question ; and that it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or servant to do or omit to do acts, whether lawful or unlawful, of the character of that charged. The liability thus imposed upon a principal or master does not relieve from criminal responsibility the person who was the active agent in the commission of the offence. Definite relief from criminal responsibility is extended in certain cases where a person has acted under warranty.

Considerable power to make regulations not inconsistent with the

Act prescribing the nature and composition of articles of food and drugs, standards for their particular properties, and various other matters are vested in the Minister of Public Health by s. 42 of the Act. Save where the delay entailed would, in the opinion of the Minister, be prejudicial to the public interests, no such regulation is to be made until at least three months' notice of making has been given in the Gazette. For certain commodities the Act itself prescribes the standards, and it is provided, *inter alia*, in s. 5 (1) that in the case of a drug the standard shall be that laid down in the British Pharmacopœia, if mentioned therein. The Act, in addition, prescribes tests for the determination of questions of adulteration or false description.

The central restrictive provision of the Act is that contained in s. 6, in which it is enacted that no person shall sell any food or drug which is adulterated or falsely described, or which is not of the nature, substance and quality and up to the standard of that demanded by the purchaser. The corresponding provision in respect of disinfectants is that contained in s. 19, which forbids any person to import or sell any disinfectant which is falsely described, or which does not bear a label giving specified particulars as to its ingredients, its method of use and certain other matters. The sale of a disinfectant under some other than its well-known name is dealt with in s. 37 (1).

The Act makes provision in s. 7 against injurious abstractions, admixtures and processes; and in s. 8 against the use of preservatives and colouring matters unless permitted by regulation. The mixture and compounding of food and drugs is made subject to the restrictions contained in s. 9.

In addition to the ordinary penalty, contumely may in some cases be superimposed upon an offender; where a person, or any of his managers, agents or servants is, within three years of the commission of an offence against the Act, again convicted of such an offence, the court may, at his expense, order the publication of his name and address and of the fact of the conviction.

Miscellaneous.—Act No. 17 enables the Governor-General to donate and transfer to the Commission for the Preservation of Natural and Historical Monuments certain lands presently classed as Defence Endowment Property.

Act No. 30 amends a certain item of the Fruit Export Act No. 17 of 1914, and in addition enables the Governor-General, by regulation, to prohibit the export from the Union under certain conditions of any variety of any kind or class of fruit to any place not exempted under Act No. 17 of 1914.

Act No. 22 is a private measure to enable the Incorporated Law Society of the Orange Free State to exercise a disciplinary control in respect of conveyancers, a class of practitioner which had previously been outside the Society's jurisdiction. In future every conveyancer practising in the Orange Free State is to be a member of the Society, and as such to have the same rights and be subject to the same obligations as a notary public who is a member of the Society. The Council of the Society is to receive notice of any application for admission to practise as a conveyancer or for the suspension or striking off the roll of any conveyancer, and is to have the same disciplinary powers and authorities in respect of conveyancers as it exercises under Ordinance No. 9 of 1903 of the Orange Free State in respect of attorneys and notaries.

2. CAPE OF GOOD HOPE.

[*Contributed by* H. A. Fagan, Esq.]

Electric Appliances.—Ordinance No. 7 gives local authorities which supply electricity the power to buy, sell, hire, let or otherwise deal in or supply electric lines, fittings, apparatus, appliances and accessories.

Motor and Omnibus Traffic.—Ordinance No. 17 gives local authorities increased powers of making regulations to regulate and control motor traffic, parking and the use of streets and public roads by motor vehicles, while Ordinance No. 19 confers on local authorities wide powers of regulating and controlling omnibus services. An applicant for an omnibus licence is required to give security in the sum of £1,000 against third-party risks and to exhibit insurance policies of £1,000 against third-party risks and £100 per seat against passenger risks.

Remission of Rates on Dwellings for the Poorer Classes.—Ordinance No. 27 empowers municipal councils to grant a remission of municipal rates, not exceeding 1½ per cent. of the assessed value up to a maximum remission of £6, in respect of dwellings erected after the taking effect of the Ordinance.

The remission applies to dwelling-houses or buildings subdivided into self-contained flats erected at a cost not exceeding £400 per flat, inclusive of the value of the site, and leased or available for lease at a rental not exceeding 12 per cent. per annum of the cost. The Ordinance is to remain in force for ten years.

3. NATAL.

[*Contributed by the* Hon. Mr. Justice Tatham, D.S.O.]

Game.—Ordinance 3 empowers the Provincial Government to destroy game in the general interests of game preservation, and to institute researches or experiments connected with or relating to game.

The purpose of the Ordinance is to restrict the numbers of game in the Zululand Game Reserve, and to experiment for the purpose of getting rid of a disease called Nagana, attributable to the tsetse-fly, which is a carrier of the disease to domestic animals, especially cattle. The subject is one productive of a good deal of controversy between naturalists and stockowners whose herds are depastured in the neighbourhood of the Game Reserve.

Roads Construction.—Ordinance 7 amends the Law 19, 1875, and the Ordinance 5, 1912, and repeals Ordinance 18, 1924. The Ordinance empowers the Provincial Government to take privately owned land for making new roads or deviating existing roads, and to take material (timber excepted) for that purpose. The Ordinance requires the delivery of notice to the landowner and the payment of compensation ascertainable by arbitration, but restricts compensation to land improved by cultivation and to buildings, but the Provincial Government may, nevertheless, pay an amount determined by the government if satisfied that serious injury has been otherwise suffered by the landowner.

Outspan Law.—By Statutory Enactment in Natal a traveller with an animal-drawn vehicle is entitled to rest and depasture his animals on private lands: but a landowner may free the rest of his land from this right by setting apart a defined portion of it for that purpose.

Ordinance 21 prohibits the fencing of land which is subject to the right of " outspan " so as to prevent its use by a traveller for outspan purposes, and empowers the officer in charge of the Provincial Roads Department to require the removal of existing fences, or to provide suitable means of ingress. If there is a failure to comply with the notice the Roads Department may itself construct suitable gates at the cost of the landowner. The Ordinance throws upon a traveller depasturing his stock within an enclosed outspan the duty of closing gates and preventing injury to the property which he passes over or uses.

Teachers' Pensions.—Ordinance 22 repeals Act 31, 1910 (Natal), which conferred pensions upon teachers of not less than twenty years' service in government-aided schools, but preserves existing and accruing rights.

The remainder of the Provincial legislation for 1929 is not of general interest.

4. ORANGE FREE STATE.

[*Contributed by* H. Pring, Esq.]

During the year 1929 fourteen Ordinances were passed by the Provincial Council of the Orange Free State. Five of these were Appropriation Ordinances, *i.e.* Nos. 1, 2, 3, 13 and 14.

Shop Hours and Half Holiday.—Ordinance No. 4 amends s. 13 of Ordinance No. 6 of 1925, which relates to the sale of goods after closing hours, and which was found by the police to be unworkable in practice.

Pound Consolidation.—Ordinance No. 5 consolidates Ordinances No. 3 of 1912 and No. 5 of 1914, and introduces a number of amendments which the administration of those Ordinances has shown to be necessary. The more important amendments are as follows: Ss. 8 (3) and 13 (*g*) throw certain duties on the poundmaster in the case of the death of impounded stock. S. 8 (4) rehearses the provisions of ss. 13 and 14 of the Brands Registration Ordinance, No. 15 of 1903. S. 27 (2) makes it compulsory for a poundmaster to receive animals even if certain information regarding such animals is missing. By s. 29 (*a*) and (*b*) the pound and herding fees have been increased and the period during which the latter are payable has been reduced from 42 to 21 days. S. 35 provides that when animals are released when *en route* for the pound, the full mileage reckoned from the place of trespass to the pound shall be paid irrespective of the place where such release is effected. S. 37 reduces the period between the date of imprisonment to the date of the sale of impounded stock from 42 to 21 days. S. 37 (1) reduces the period of the *Gazette* notice from 21 to 14 days and provides for the sale of donkeys which, when impounded, are found to have a poundbrand, after the expiration of a period of 7 days without prior notice of sale in the *Gazette*. Ss. 37 (4) and 41 (8) give to municipalities the power to lay down by regulations the hour at which municipal pound sales shall be held. S. 44 provides that pound and herding fees are to be charged in respect of stock sent to the pound by the government. S. 49 directs that, in the case of a prosecution for illegal impoundment, the court imposing a penalty for the contravention of the provisions of the Ordinance shall at the same time assess and give judgment for the amount of loss or damage occasioned by such illegal act.

Motor-cars.—Ordinance No. 6 amends the Motor Car Ordinance No. 7 of 1914 (as amended by Ordinance No. 11 of 1926). It (*a*) pro-

hibits the use of a motor-car by any person without the consent of the owner; (*b*) makes it an offence to obtain a driver's certificate by misrepresentation and provides for the cancellation of a certificate issued to a disqualified person in error; and (*c*) makes it an offence for any person to drive a motor vehicle when he is under the influence of intoxicating liquor.

Townships and Hamlets.—Ordinance No. 7 amends the Township and Hamlet Ordinance No. 6 of 1928. When the original Ordinance was in the committee stage an amendment was introduced in the form of an additional subsection (5) to s. 16, which was intended to be of application to townships only. The provisions of s. 16 are, however, applied to hamlets by s. 34 (4) and the amending Ordinance was necessary to ensure that the provisions of s. 16 (5) should not be applied in the case of an application for permission to establish a hamlet.

S. 16 (5) above referred to prohibited the establishment of any township on a site situated less than twenty miles from any existing town until authorized by a resolution of the Provincial Council.

Roads.—Ordinance No. 8 was passed in order to give effect to certain recommendations of the Roads Commission of Inquiry and with a view to rendering the closing and deviation of roads other than main and proclaimed district roads an easier, quicker and less expensive proceeding than is the case under the Roads Ordinance No. 6 of 1912.

Wheel Tax and Road Board.—Ordinance No. 9 amends the Wheel Tax and Road Board Consolidation Ordinance No. 8 of 1921. Provision is made for replacing, in the case of motor vehicles, the existing wheel tax badge by a clearance certificate as at present in force in the Transvaal and Cape Provinces.

Betting Restriction.—Ordinance No. 10 amends the Betting Restriction Ordinance No. 21 of 1922. It provides (*a*) that the constitution or rules of a licensed betting club or association cannot be amended without the sanction of the Administrator; (*b*) for the imprisonment without the option of a fine in the case of unauthorized bookmakers; (*c*) for the closing of licensed betting rooms on specified days; (*d*) for the prohibition of betting with or by minors; and (*e*) for regulating the issue of bookmakers' circulars. S. 3 provides a general penalty clause.

Hospitals and Charitable Institutions.—Ordinance No. 11 amends Ordinances No. 8 of 1913 and No. 5 of 1928 as follows: Ss. 1 and 2 provide for an altered basis of representation on Hospital Boards with a view to (1) increasing the number of members to be appointed by the Administrator whilst reducing those to be appointed by local authorities and elected by contributors, and (2) providing representation on the Board for the honorary visiting staff in certain cases. S. 3 provides that all officers, nurses, attendants, etc., appointed by a Hospital Board must be bilingual (the Administrator is authorized to approve the appointment of unilingual persons in exceptional circumstances). S. 4 re-enacts the pension fund provisions made in Ordinance No. 5 of 1928 in an amended form, it having since been decided to make it compulsory for every Hospital Board to establish such a fund. S. 5 makes it necessary for a Hospital Board to obtain the Administrator's sanction before appointing a Secretary to the Board. S. 6 amends the existing provisions with regard to the selection by full- and part-paying patients of their medical attendants.

Local Government.—Ordinance No. 12 amends the Local Government

Consolidation Ordinance, 1925, as amended by Ordinances No. 8 of 1927 and No. 8 of 1928. The main provisions are: (1) The disposal of the proceeds of the sale of Municipal Erven. (2) The establishment by a municipality of a water-borne sewage system. (3) The amendment, for the purpose of raising loans, of the definition of the term "registered owner" to include, in certain specified cases, a society, company, public institution and the executor or administrator of an estate in trust or liquidation. (4) The authorization of the administrator to exempt a municipality in certain circumstances from the necessity of keeping separate banking accounts for trust funds, etc. (5) Additions to the securities in which municipal trust funds may be invested, viz. Union Government stock and securities and the stock of other municipalities. (6) Granting power to a municipality: (*a*) to establish and to dispose of the products of tree and plant nurseries and stone and gravel quarries; (*b*) to undertake laundry work; (*c*) to establish and maintain a municipal ambulance; (*d*) to deal with erections over and on side-walks (verandahs, petrol pumps, etc.) and cellar openings in side-walks.

This Ordinance also amends the definition of "householder" with a view to enabling married women who have been enrolled as municipal voters to stand for election as town councillors.

5. TRANSVAAL.

[*Contributed by* G. HARTOG, ESQ., *Advocate.*]

Ordinances passed: 12, of which 3 are Appropriation Ordinances.

Education.—Ordinance 3 amends the principal Act of 1907 and gives power to the Administration to grant bursaries to coloured children of the Transvaal, for secondary, technical or industrial education outside the Province, where facilities do not exist within the Province.

Ordinance 10 extends the period of office of certain school boards for one year.

Local Government.—Ordinance 4 amends the principal Ordinance of 1926 in certain respects, of which the more important are: (*a*) by repealing s. 77, which imposed the duty on Town Councils of burying paupers; (*b*) amending s. 80 (by-law powers) by enabling Councils to prohibit the erection of buildings of a dangerous, unsightly or objectionable character or of a class calculated to depreciate the value of surrounding properties; (*c*) amends s. 80 (70) by giving powers to regulate the parking of motor vehicles.

Warmbaths.—Ordinance 5 provides for the constitution of a Board of Trustees to control and manage in the public interest the baths and natural hot springs in the township of that name.

Motor Vehicles.—Ordinance 6 amends the principal Ordinance of 1915 (as amended) in certain respects, of which the more important are: (*a*) exempting motor vehicles belonging to local authorities, hospital boards and educational institutions (if used solely for education in motor mechanics) from payment of registration and licence fees; (*b*) amending the definition of reckless driving in s. 12 of the principal Ordinance to include driving while under the influence of narcotic drugs.

Public Hospitals.—Ordinance 7 amends the principal Ordinance 18 of 1928 in certain minor respects, including power to the Administration to provide for the election of elective members of hospital boards by post.

Pensions.—By Ordinances 8 and 9 the principal Ordinances, namely, Ordinance 14 of 1927 and Ordinance 13 of 1919, governing respectively the pensions of hospital and school board officials, and of hospital nurses, are amended in certain minor respects, and by Ordinance 12 the Transvaal Teachers' Pensions Ordinance 5 of 1916 is similarly amended.

6. NORTHERN RHODESIA.

[*Contributed by* GODFREY PLACE, ESQ., D.S.O., M.C., LL.B., *Solicitor-General.*]

Fifty-nine Ordinances were passed in 1929, three of which were Appropriation Ordinances and twenty-three contained minor amendments to the existing law.

Constitutional Changes.—A constitutional change of some importance is introduced by Ordinance No. 37, whereby the number of elected members of the Legislative Council is increased from five to seven. Two members will in future represent the constituency known as the Livingstone and Western Electoral Area, while the increase of mining activity in the north obtains recognition in the formation of a new electoral area with Ndola as its centre. This measure is the outcome of a representation made by the elected members in 1928. When it is remembered that the Legislative Council only came into being in 1925, this increase of unofficial members is a convincing proof of the remarkable progress of this Protectorate.

Local Government.—In municipal matters Ordinance No. 5 makes certain necessary amendments in regard to voting by owners and occupiers; prescribes the qualifications rendering a candidate eligible for election as a councillor, and provides for the punishment of certain election offences, which latter provisions follow the lines of the Legislative Council Ordinance, 1925.

Ordinance No. 53 consolidates and amends the law in regard to the establishment and regulation of townships. The Governor in Council is given power to declare an area to be a township and to declare an area adjacent thereto to be an urban district; local authorities are to be appointed for all townships other than municipalities. Where practicable, the authority will take the form of a management board consisting of several members, but in smaller areas the district officer will be the local authority; accounts must be kept and audited; the control and management of streets is provided for; and power is given to impose rates. Part VII of this Ordinance provides ample powers for the promulgation of regulations by the Governor in Council in regard to health, convenience and sanitation in townships.

Ordinance No. 60 carries the provisions in regard to townships a step farther. It provides for the planning of new townships and for the approval of schemes for the replanning of existing townships. It provides for the appointment of a town-planning board to receive and consider applications and plans, and generally to deal with town-planning schemes. This Ordinance is more or less in accordance with existing legislation elsewhere.

Greater control from the point of view of protection from fire is provided by Ordinance No. 54, under which elaborate regulations have since been framed for the control and licensing of theatres and cinemas, and these regulations will shortly come into operation. No building will

be licensed for entertainments of the nature covered by this Ordinance unless the licensing officer is satisfied that sufficient measures exist for the safety and convenience of persons attending performances. The Ordinance provides also for the censorship of films and posters advertising their exhibition.

Compulsory Acquisition of Land.—Ordinance No. 59 empowers the Governor to acquire compulsorily land required for public purposes. These purposes are defined in the Ordinance and include purposes connected with sanitary improvements of all kinds, including reclamations, purposes connected with any new township or government station or for the extension of such township or station; for obtaining control over land adjacent to any ports, railways, roads or other public works of convenience constructed or about to be constructed by the Government; for obtaining control over land required for mining purposes and for the construction of any railway authorized by legislation. Disputes as to compensation and title are to be settled by the High Court, and the compensation is to be assessed according to the value at the time of service of notice of intention to acquire the land. This Ordinance, however, does not come into operation until May 23, 1930.

Native Labour.—One the most important measures was that dealing with the employment of natives (No. 56), which, in addition to amending and consolidating the enactments of 1912 and 1917, introduces more detailed provisions as to the care of native servants and provides for the payment of compensation on the death of or for injuries received by native employees in the course of their employment. This measure now forms what might be called a Native Labour Code: it removes ambiguities which existed formerly in the application of the two prior enactments of 1912 and 1917, already mentioned, and which were to some extent at variance with each other: it aims at clarifying the position in regard to what is known as the "ticket system," and it will be followed by elaborate regulations made under its authority, governing the conditions of labour throughout the territory in general, and in the mining areas in particular. It is divided into nine parts which *inter alia* deal exhaustively with the formation and interpretation of contracts of service; contracts of apprenticeship; feeding, housing and medical attendance of employees; compensation for death and incapacity; settlement of disputes and methods of payment; breaches of contract and differences between employers and employees and the licensing and control of labour agents and recruiting.

Native Administration.—Further legislation of an exclusively native character is to be found in Ordinance No. 57, which aims at regulating the residence on European farms of those natives who prefer to remain within the occupied areas, rather than migrate to the native reserves specially allotted to them under the Crown Lands and Native Reserves Order in Council of 1928. This Ordinance authorizes the inspection by district officers of all natives so remaining in the white settlement areas with a view to preventing the "farming" of natives by landowners, and the rise of a class of native squatters. The registration of all male natives of employable age is made compulsory by Ordinance No. 50, which extends the registration already effected for native tax and census purposes. The carrying of identity certificates, however, is compulsory only in certain prescribed districts to the number of which the Governor is empowered to add. It is anticipated that this registration will be helpful

not only in reducing the number of desertions from employment, but also in providing a record which may be of advantage to the natives themselves.

Ordinance No. 32 is the outcome of a recommendation made by the political officers' conference in November 1927, that the existing law providing for the administration of natives should be repealed and replaced by a measure establishing local self-government in native areas by means of native authorities; that is to say, by chiefs or native councils or groups of natives recognized as the native authority for the areas under their influence. These native authorities will be responsible generally for the maintenance of order and good government in the areas under their jurisdiction. In the main, their duties will comprise most of those hitherto imposed on chiefs and headmen by earlier legislation. The objects of the Ordinance briefly stated are to carry out the policy advocated by Lord Lugard in his book on tropical Africa, to enable tribal development to take place on normal lines side by side with the civilizing influences of the European settler.

Ordinance No. 33 is intended to recognize the judicial powers hitherto enjoyed irregularly by chiefs and headmen, and to place these tribunals on an organized basis. The Ordinance is brief and provides only a skeleton within which the Governor in Council can legislate by regulation. The exercise of supervision over these courts will be in the hands of political officers.

Ordinance No. 34 re-enacts that part of the Administration of Natives Proclamation, 1916, dealing with district messengers which is not covered by the Native Authority Ordinance above mentioned. In effect, these district messengers form an efficient body of native police in native areas, and the duties which they carry out are of the greatest assistance to the British administration of the territory.

The Judiciary.—In matters relating to the judiciary certain alterations, as a result of the change of titles of administrative officers (No. 20), have been made in the law relating to the High Court (No. 23), the Magistrates' Courts (No. 22) and the Native Commissioners' Courts (No. 21). A consolidating measure (No. 21) dealing with the last-mentioned tribunals removes certain ambiguities in the existing law and defines more clearly the powers of provincial commissioners on review and on appeal.

Mining.—What may at first sight seem to be a small and comparatively insignificant measure (No. 11) may, however, have a wide application. It is the outcome of a dispute as to whether or not the word " minerals " should be construed as to include limestone. The British South Africa Company as owners of the minerals contended that limestone was a mineral within the definition of the Mining Proclamation, 1912, and therefore could not be worked without their permission. The Company has, however, compromised by consenting to an amendment of the definition, the effect of which is that limestone and other materials suitable for building, road metalling or agricultural purposes and used by the landholder for his own purposes, or by the Government of this Territory for public purposes, are excluded from the definition of " mineral " or " minerals " so long as such limestone and other materials or any products manufactured from them are not sold for profit.

Arms, Ammunition and Explosives.—Ordinance No. 36 has repealed (*inter alia*) the old North-Western and North-Eastern Rhodesia Regulations and the Native Fire-arms Restrictions Proclamation and gives legislative effect to the terms of the Convention for the control of the

trade in arms and ammunition, and the Protocol signed at Saint Germain-en-Laye.

It prohibits export from the Territory of all arms and ammunition of war except in certain circumstances, and with certain restrictions under a licence from the Governor; and it prohibits the export of other fire-arms to any part of the prohibited area or zone. It makes compulsory the registration of all fire-arms and prescribes licences for arms and ammunition. It deals with the establishment of public and private warehouses and the manufacture and repair of arms. The power to make rules given to the Governor in Council by this Ordinance has already been exercised, a set of rules implementing the Ordinance having been published in this year.

Ordinance No. 41, purely an enabling measure, gives the Governor in Council power to make rules in respect of the importation, transit, storage and use of explosives. In view of the mining development and the consequent large increase of explosives for mining purposes, it was necessary to take this legislative power of control. Prior to the passing of this Ordinance a certain measure of protection was possible, but only in townships and in the municipality of Livingstone; but outside those limited areas no action could be taken.

Posts and Telegraphs.—The postal and kindred services receive recognition in Ordinance No. 18, a comprehensive measure of ninety-eight sections fully declaratory of the law as modified by the Universal Postal Convention; Ordinance No. 19 deals exclusively with the transmitting and receiving of telegraphic and telephonic communications by means of wires; and Ordinance No. 28, an up-to-date measure, provides for the establishment and control of radio-electric communications in accordance with the recent International Radio-telegraph Convention.

Railways.—Further evidence, if any were needed, of the development of mining operations consequent on the recent copper discoveries is supplied by two new railway Ordinances Nos. 43 and 24 respectively, the construction of railway extensions at N'Changa, and from Mufulira to Mokambo in the Belgian Congo.

Pensions.—Certain amendments of interest mainly to civil servants have been made in the law relating to European officers' pensions, and a scheme, common to all the British Dependencies in East Africa, has been introduced into this territory by Ordinance No. 31, whereby pensions may be granted to widows and children of officers who have served in Northern Rhodesia.

Customs and Excise.—One or two minor amendments have been made in the customs law. Ordinance No. 13 reduces the customs duty on sodium zanthate and other flotation reagents used in the extraction of base metals from 20 per cent. to 3 per cent. *ad valorem*, and by Ordinance No. 1 an increase of 3*s*. 6*d*. a gallon has been placed on spirits imported into the territory.

Interpretation.—A welcome measure, long overdue, dealing with the interpretation of laws is Ordinance No. 55, which should be of as great service to the draftsmen in preparing fresh legislation as it will be to the courts in the construction of existing laws.

Legitimacy.—Legislation similar to that enacted in England by the Legitimacy Act, 1926, was introduced into this territory by Ordinance No. 40, the provisions of which follow closely the English Act from which it was taken.

Registration of United Kingdom Designs.—Ordinance No. 6 provides for the registration in the territory of designs registered in the United Kingdom and gives effect to a scheme suggested by the Federation of British Industries for the centralized system of registration for industrial designs throughout the Empire.

Dairies and Dairy Produce.—Another purely enabling Ordinance is to be found in Ordinance No. 16, which provides a power to make elaborate regulations for the control and manufacture of dairy produce in creameries and other places where milk and cream are purchased from producers for conversion into butter or butter substitutes. Machinery is provided also to deal, when the occasion arises, with all milk supplies ; and to ensure that such milk is brought to consumers from an uncontaminated source.

Control of Dogs.—Ordinance No. 17 increases the penalties for the breach of regulations relating to the introduction, removal, registration, isolation and destruction of dogs and more particularly in regard to such breach where there is a known or suspected outbreak of rabies.

Fisheries.—The protection and improvement of fish in the rivers and lakes in the territory is dealt with in Ordinance No. 3, also an empowering measure, under which rules in greater detail will be made.

Ports.—Although there is only one port at present established in Northern Rhodesia, namely, at Mpulungu on Lake Tanganyika, legislation was necessary to provide for the imposition of port dues and other charges in connexion with the upkeep of this port, and the safety of vessels using it. Ordinance No. 2 was passed to this end, providing in addition ample powers for the medical supervision of the port and its environments by a Health Officer.

Vagrancy.—Specific legislation dealing with vagrants both native and European is to be found in Ordinance No. 35, which gives the Governor power to provide houses of detention to which vagrants can be committed under the charge of a superintendent, whose duty it will be to find suitable employment for such vagrants. If no suitable employment is available, the vagrant may be repatriated, or if a native of the territory may be returned to his village. This enactment has for its object the dispersal of an undesirable class of native loafers in townships, and the repatriation of poor whites and deportees from adjacent territories, who are unable to obtain employment in the Protectorate ; but its operation is, for the present, suspended, nor will it be brought into operation until the necessary houses of detention have been built.

7. SOUTHERN RHODESIA.

[*Contributed by* A. E. Speight, Esq., K.C., *Solicitor-General.*]

The Acts for 1929 numbered thirty-six, of which the more important are dealt with as follows :

Administration of Estates.—No. 12 amends Ordinance No. 6 of 1907 in various matters and also makes provision for the control of property belonging to persons whose whereabouts are unknown.

Advertisement.—No. 6 regulates the use of advertisements and prohibits their display along or within one hundred yards of public roads, railways and other places defined by the Ministers. Two years is allowed for existing advertisements to be removed. Exemptions include

advertisements within urban areas, railway stations, yards, etc., within one hundred yards of hotels and stores, and one or two of lesser importance.

Architects.—No. 29 provides for the classification of architects, for the establishment and incorporation of the Institute of Southern Rhodesian Architects; and for the rights, powers, privileges and duties of the members of the Institute.

Aviation.—No. 9 enables effect to be given to the International Convention for regulating air navigation and makes provision for the control, regulation and encouragement of aviation. The Government may establish and maintain aerodromes. All public aerodromes must be approved or licensed. The investigation of accidents is provided for, and wide powers given for the framing of regulations to cover the use of aircraft within the Colony.

Children.—No. 22 provides for adoption and for the better protection of children. It repeals the Children's Protection Ordinance of 1918. C. 1 deals very fully with cruelty and neglect of children and c. 2 with the protection of infant life specially. Adoption is legalized by c. 3, requiring an order of court. The adopting parents acquire all rights, duties and obligations of true parents, but the child adopted loses no rights to property and acquires no such rights by the change. C. 4 provides for the establishment and regulation of government industrial schools and institutions. The supply to and possession of tobacco or liquor by children is prohibited in c. 5. C. 6 provides for the safety of children attending or employed at entertainments.

Commissioners of Oaths.—No. 11 provides for the appointment, powers and duties of commissioners of oaths. Formerly only justices of the peace could administer oaths and take declarations. *Ex officio* powers are given to notaries, mayors, chairman of town management boards and road councils and government medical officers.

Deceased Estates.—No. 14 makes some important changes in the law relating to intestate succession. Under common law a surviving spouse is not entitled to any portion of the estate of deceased in intestacy. Ordinance 18 of 1916 gave such spouse the first £500 and thereafter one-half of the residue. This Ordinance is now repealed and the following is the position. If the marriage is out of community the survivor receives the household goods and effects plus £1,000 from the estate of the deceased. If in community the said goods and effects and, when the half share of the joint estate does not amount to £1,500, then such amount as will bring it up to £1,500. In both cases, in addition to the benefits stated, the surviving spouse obtains a life usufruct over the whole estate of deceased if there are no children living and over one-half of the estate if there are surviving children. By s. 6 marriage cancels wills made prior thereto, except joint wills made before marriage, unless ratified by endorsement thereon. No. 31 imposes an estate duty (hitherto unknown in the Colony) and amends the law in relation to succession duty. Estate duty is fixed at 1 per cent. upon the first £5,000, increasing with increased amount of the estate up to 10 per cent. when the estate exceeds £300,000. Where the estate is inherited by a surviving spouse one-half the ordinary rates only are chargeable on the first £10,000. Succession duty varies from 2 per cent. when a successor is a surviving spouse or a direct descendant or ascendant to 10 per cent. on the amount of the succession. Exemptions from succession duty include the first £5,000 accruing to a

surviving spouse, the first £1,000 accruing from a parent to an orphan under eighteen, successions accruing for charitable, educational or ecclesiastical purposes within the Colony and successions accruing to the Government or to any local authority. The basis of taxation is the situation within the Colony of the property.

Game and Fish.—No. 35 consolidates and amends the law relating to the preservation of game and fish and the protection of fauna. Under this Act the Governor may fix the classes of game which may be hunted under the various licences, fix closed seasons, protect game or other birds and animals, prohibit the sale or exportation of plumage or skins of birds, define game reserves, and may suspend the whole or any portion of this Act either throughout the Colony or any portion thereof. The ordinary game licence for birds and small antelope is fixed at £1, the special game licence which covers certain of the large antelope is £5 to a person domiciled in Southern Rhodesia and £25 to one not so domiciled and a royal game licence £25 or £50. With regard to fish, the Governor may fix closed seasons, may limit the method of capture of any particular kind of fish and may authorize associations or persons to introduce into defined water any specified fish and limit the fishing in such water to persons permitted by such association or persons. The use of poisons and explosives for the purpose of killing fish is prohibited.

Land.—No. 3 provides for the redemption of quit-rent on land, and for the apportionment of quit-rent on the subdivision of land. The redemption amount is fixed at twenty times the annual payment. [Apportionment of land has been dealt with under the heading " Natives."] No. 30 amends the Land Tax Act, 1928, by exempting indigenous forest land from taxation provided the owner is taking proper steps for the preservation of such forest.

Natives.—By Act No. 5 the Department of Native Development was established, the control of native education being taken away from the Education Department. Provision is made for the establishment of schools by the Government and for grants-in-aid of missionary schools and the training of teachers and in aid of any other work approved by the Ministers as being designed to further native development. Lands may be granted to missionary bodies for the erection of school buildings. All native schools are to be inspected as prescribed. Elaborate regulations have been made under the Act and the Department is now in full swing. Native marriages are dealt with by Act No. 16. The outstanding change in the law effected by this Act is that the validity of a marriage no longer depends, as previously, upon registration by the Native Commissioner. Registration is compulsory as before and it is still an offence for the male party to fail to register the marriage. Before registration inquiries are made, and if it should be ascertained that the terms are not fully agreed upon, or that the woman does not consent, the marriage may be declared null and void, *ad initio*, but until it is so declared it is valid for all purposes save one, namely, there is no restriction of the evidence of one spouse against the other. Another important amendment is in regard to the marriage of natives in accordance with the ordinary European formalities. It is now necessary for natives desiring so to marry to obtain a certificate from a registering officer (of native marriages) that there is no bar to the marriage. That officer will also explain to the natives the result of such a marriage. The object of this amendment is obvious and its inclusion was necessitated by the evils

caused through numerous marriages being effected without the parties fully understanding their legal position.

Act No. 36 regulates forests and plantations on native reserves, and prevents the cutting of timber therein except as provided in the Act. The natives in any reserve may still freely cut wood for their own use, except certain reserved trees and any plantations. Plantations may be established. No wood may be sold from reserves except by the Chief Native Commissioner when there is an excess over what is or may be required by the native inhabitants, and if any is so sold the proceeds will go to the Native Reserves Trust Fund. Other provisions aim at the general protection of trees and the interests of the natives. No. 17 repeals the Box System Ordinance, 1912, and makes full provision for the supervision of the native box system and for the regulation of the business of receiving deposits of money from natives. By the box system is meant the practice of storekeepers keeping boxes in which natives deposit their goods for safe keeping or as security for credit purposes. Persons carrying on these businesses must be registered and the Act generally aims at protecting the native in such dealings.

The object of No. 18, the Land Apportionment Act, is to divide the Colony into areas where natives alone may acquire land and other areas where non-natives may. It is done in this way. Areas amounting to seven and three-quarter millions are classed as the native area, seventeen and three-quarter millions are for the time being left unassigned, and the balance, with the exception of certain small areas, classed as undetermined areas, native reserves and about half a million acres reserved for afforestation, is the European area. In the native area no person other than a native may hold or occupy land except when specially authorized for educational, religious or trading purposes. The Land Board with the C.N.C. as chairman, will control the grants of land and transfer, *inter vivos*, is subject to the Board's approval. In the European area no native may hold land; further, no native may occupy land except on alienated Crown land with the special approval of the Governor, save that natives may be allowed to occupy alienated land free of any charge direct or indirect. As regards both areas existing rights are protected, though expropriation may take place subject to compensation. The unassigned area may be assigned from time to time to either the native or European area, but pending such assignment no alienation may take place. Village settlements may be established, near towns or other centres of native employment, for the use and occupation of natives and the provision of schools, churches, etc. Local authorities may with the approval of the Governor in Council set aside areas for the exclusive use and occupation of natives; thereafter no native may own or lease any land or premises within the area under the jurisdiction of the local authority except in such areas so set aside. Existing rights may be expropriated by the Governor. No. 28 repeals the existing law relating to the dealing in stock and produce belonging to natives and re-enacts new provisions.

Radio.—No. 24 makes provision for the control of radio activities and matters incidental thereto. Radio is placed under the control of the Postmaster-General. Licences are required for transmission and reception by radio, also special licences for experimenters, broadcasting and listeners. No person shall be employed as an operator at a radio transmitting station unless he is a British subject. All plant and appa-

ratus is subject to inspection, and licences may be cancelled for good reason.

Tsetse-fly.—No. 7 allows the declaration of fly areas and regulations restricting and regulating movement in and out of such areas ; also the provision of any other measures necessary to prevent a spread of fly.

BRITISH EMPIRE.

VII. BRITISH INDIA.

[*Contributed by the* Hon. Sir Henry Moncrieff-Smith, Kt., C.I.E., I.C.S.]

The Legislatures of British India placed 99 measures on the Statute Book in 1929 as against 83 in the preceding year. The increase was entirely accounted for in the provincial Councils, where a noticeable feature was the greater number of Bills promoted by private members. Except for the promulgation of one Ordinance, the Governor-General and the Governors had no occasion to exercise their special emergency powers of legislation.

1. ACTS OF THE INDIAN LEGISLATURE.

Acts passed—25.

Hindu Law.—Act No. 2 was an important measure from the point of view of the Hindu population of India. It was a private measure regarding the Hindu law of inheritance in regard to which an attempt had been made to legislate by a private Bill as long ago as 1923. In the words of the mover the Act was " intended to remove a sex disqualification which under the archaic rules of Hindu law excludes one's nearest female relations, *e.g.* the sister, the son's daughter and the daughter's son, from inheritance altogether, while it gives the sister's son a very low place . . . which gives him a very poor chance of succession." The legislature has now laid down that " a son's daughter, daughter's daughter, sister and sister's son shall, in the order so specified, be entitled to rank in the order of succession next after a father's father and before a father's brother." The Act contains a provision that it shall not override any special family or local custom having the force of law.

Child Marriage.—Act No. 19, the Child Marriage Restraint Act, better known as the Sarda Act after the name of its mover, was also a private measure. It excited a storm of controversy all over the country between the social reformers on the one hand and the followers of the orthodox school of thought on the other. In the end its provisions are comparatively simple. It defines a " child " as a person who, if a male, is under 18 years of age, and if a female, is under 14 years of age. A " child marriage " is one to which either of the contracting parties is a child. The male contracting party to a child marriage is liable, if over 18 and under 21 years of age, to be punished with a fine amounting to Rs. 1,000/–, with no provision for imprisonment in default of payment ; if over 21 years of age, he is liable to imprisonment for one month, or with fine up to Rs. 1,000/–, or with both. The latter penalty is also imposed on the person who knowingly solemnizes a child marriage, as well as on the

parent or guardian of a minor who promotes or negligently fails to prevent a child marriage ; the burden of proving that there was no negligence is on the accused person, and no woman is liable to imprisonment under this provision. The noticeable feature in regard to this Act is that it does not purport to annul child marriages, and, as the opponents of the measure frequently pointed out, fines imposed under it might merely be regarded as an addition to the ordinary marriage expenses. It came into force on April 1, 1930.

Workmen's Compensation.—Act No. 5 makes numerous amendments in the original Workmen's Compensation Act No. 8 of 1923, with a view to removing defects brought to light in its administration. The amendments are confined to matters which the government anticipated would prove non-controversial. The more important changes made in the law are : (1) compensation to a workman engaged on the construction or demolition of a building or bridge is no longer confined to cases of death or total permanent disablement ; (2) benefits are extended to persons employed by a contractor on railway works ; (3) a strict procedure is laid down for the payment of lump sums as compensation to dependents of deceased workmen and to minors and other persons under a legal disability.

Trade Disputes.—The Trade Disputes Act, No. 7, is an entirely new piece of legislation to deal with the outbreak of industrial unrest on a large scale which was a feature of the period succeeding the end of the war. The first part of the Act, dealing with the establishment of tribunals for the investigation and settlement of trade disputes, is based generally on the British Industrial Courts Act of 1919. The main difference is that whereas the English Statute provided for a Standing Industrial Court, the Indian Act provides for the establishment of Conciliation Boards and Courts of Inquiry *ad hoc* in order to deal with particular disputes. The advice of a Conciliation Board and the findings of a Court of Inquiry are not binding ; in the event of their being unable to bring about an agreed settlement, reliance is placed on the force of public opinion influenced by the publication of their reports. The second part of the Act relates to sudden strikes and lock-outs in public utility services. It lays down a period of fourteen days' notice, and imposes a penalty for infringement which may extend to one month's imprisonment, or fine or both. Secretaries, directors and officers of companies, corporations and associations are liable to the penalty unless they can show that the offence was committed without their knowledge or consent. The third part of the Act contains provisions on the lines of ss. 1, 2 and 7 of the British Trade Disputes and Trade Unions Act, 1927, applicable to illegal strikes and lock-outs, that is to say, those which have other objects than the mere furtherance of a trade dispute in the industry to which the parties belong and which are designed to coerce government by inflicting severe, general and prolonged hardship on the community. The penalty for taking part in an illegal strike or lock-out may extend to three months' imprisonment, or fine or both. The Act finally contains a provision to prevent the victimization by a trade union of persons withholding from a strike or lock-out.

Transfer of Property.—Acts Nos. 20 and 21 are two very important measures amending the law relating to the transfer of property contained in Act No. 4 of 1882. There is an immense volume of litigation in India on this subject. For many years past the Judicial Committee of the Privy Council and the High Courts in India have by their rulings been attempting to clarify the provisions of the old Act ; in some cases the result was

merely an increase of uncertainty. The Acts now placed on the Statute Book are the outcome of the labours of many eminent lawyers spread over a number of years. It would be impossible within the limits of this summary to epitomize the principal provisions of these measures, dealing, as they do, with a highly technical subject.

Finance Act.—Act No. 6 increases by 50 per cent. the import and excise duties on motor-spirit in order to create a fund for road development. In other respects it repeats the rates of salt duty, postage, income-tax and super-tax laid down in the Finance Act of 1928. In the passage of the Bill through the Legislative Assembly an amendment reducing the salt duty was carried. Thereupon the Governor-General exercised the power vested in him to recommend to the Assembly that it should pass the Bill in the form in which it was introduced. The Assembly accordingly reversed its previous decision and restored the clause relating to the salt duty to its original form. The Council of State passed the Bill without amendment.

Private Provident Funds.—Act No. 12 amends the Indian Income-tax Act No. 11 of 1922 for the purpose of affording as far as possible the same relief in respect of income-tax to contributions made to provident funds maintained by commercial and other employers as had hitherto been given in respect of life insurance premia. Such contributions are now exempt from the payment of tax provided that with any payments in respect of life insurance they do not exceed one-sixth of the employee's salary. The Act sets out the conditions upon which a provident fund may secure the recognition of the income-tax authorities for the purpose of securing its benefits.

The other Acts of the Central Legislature in 1929 were amending measures or otherwise lacking importance or general interest.

2. MADRAS.

Acts passed—18.

Universities.—Act No. 1 establishes and incorporates the Annamalai University created through the generosity of Sir Annamalai Chettiyar. It is a teaching and residential university of the type that has become common in India during the last decade.

Act No. 12 makes numerous amendments in the Madras University Act No. 7 of 1923, mainly for the purpose of reducing the size of the councils, boards and other authorities of the university, and for more specifically defining their functions. Experience had shown that the machinery for the administration of the university was unnecessarily cumbersome.

Religious Endowments.—Act No. 5 is a measure of some importance amending the Madras Hindu Religious Endowment Act No. 2 of 1927.[1] It is designed to put an end to the practice of the dedication of young girls as *devadasis* for service in Hindu temples. It is common knowledge that these girls are committed to a life of immorality, and the Legislature thought that an effective step towards the abolition of the practice would be to lay down that lands held by them on condition of service in a temple should be enfranchised or freed from such condition.

Public Services.—Act No. 11 sets up for the Presidency of Madras a Services Commission on the lines of the Public Service Commission

[1] See *Journal of Comparative Legislation*, Third Series, vol. xi, pt. iii, p. 162.

appointed by the Secretary of State under s. 96 C. of the Government of India Act.[1] The duty of the Commission is to assist the local government in recruiting for the provincial and subordinate services, whether by competitive examination, selection or promotion, and also to advise the government in regard to appeals of members of the services aggrieved by orders passed against them.

Gambling.—Act No. 13 amends the Madras City Police Act No. 3 of 1888. When introduced it was designed to suppress bucket-shops in the City of Madras where betting on horse-races was indulged in, and the Bill proposed to allow betting off the race-course only on premises licensed by the authorities. The Legislative Council, however, went further, and the law now makes betting on horse-racing illegal except on the day of the race and in sanctioned enclosures on the race-course.

Municipalities.—Act No. 17 enacts amendments to the Madras District Municipalities Act No. 5 of 1920, for the purpose of providing that streets, wells, tanks, reservoirs and markets, vested in or maintained by the municipal council, shall be open to all persons of whatever caste or creed. This was a measure in the interests of the so-called " depressed classes." It follows and goes somewhat further than the provisions of the Madras Local Boards (Amendment) Act No. 2 of 1927.[2]

The remaining Acts were unimportant or of purely local interest.

3. BOMBAY.

Acts passed—21.

Stamps and Court Fees.—Acts Nos. 1 and 2 continue for another year the enhanced rates of stamp duty and court fees imposed respectively by Acts Nos. 2 and 3 of 1922.

Rent Restriction.—Act No. 3 continues in a modified form the provisions of the Bombay Rent (War Restriction) Act No. 2 of 1918. It applies only to the city of Karachi, and to premises of which the standard rent does not exceed Rs. 35/- a month. It remains in force up to the end of the year 1931.

Civil Law.—Act No. 4 deals with the establishment of a Court of Small Causes at Karachi. The law hitherto applicable was the Provincial Small Causes Courts Act No. 9 of 1887, and the Civil Justice Committee recommended that it should be assimilated to that in force in the other large seaports in India. The law closely follows the provisions of the Rangoon Small Cause Courts Act, 1920 (Burma Act No. 7 of 1920).

Maternity Benefit.—Act No. 7 is a measure to regulate the employment of women in factories some time before and some time after confinement and to make provision for the payment of maternity benefits. It applies only to certain industrial districts of the Bombay Presidency. It fixes a period of four weeks following the day of delivery during which the employment of a woman is illegal and awards her a maternity benefit of eight annas a day throughout these four weeks, and also for a period not exceeding three weeks before her confinement during which she is actually absent from work.

Criminal Law.—Act No. 8 supplements the provisions of the Indian Penal Code in regard to criminal intimidation. This form of offence had become very rife in Bombay during periods of industrial unrest. The Act

[1] 5 & 6 Geo. V, c. 61 ; 6 & 7 Geo. V, c. 37 ; and 9 & 10 Geo. V, c. 101.

[2] See *Journal of Comparative Legislation*, Third Series, vol. xi, pt. iii, p. 162.

enables the local government, when satisfied that the public tranquillity is endangered by the prevalence of intimidation, to declare that a state of emergency exists. Thereupon, for a period of one month, the offence of criminal intimidation becomes one cognizable by the police, that is to say, an offence in respect of which the police may arrest without warrant.

Act No. 17 was the outcome of a series of riots and hooliganism which were prevalent in Bombay City in the early months of 1929. It enables the local government, when satisfied that the public tranquillity and security of life and property are endangered, to declare a state of emergency, whereupon the authorities are given power to order a turbulent character to remove himself from the City of Bombay or its neighbourhood or, in certain cases, from the Presidency of Bombay. A penalty is imposed for non-compliance with an order, and the police are given power to arrest for the purpose of enforcing it. The person against whom the order is made is given the right of appeal to the local government.

Gambling.—Act No. 14 was enacted to make it clear that the provisions of the Bombay Prevention of Gambling Act, 1887, did not apply to bets on a licensed totalizator. The measure was a result of the doubt raised by the decision of the House of Lords dated March 4, 1929, in *Attorney-General* v. *Luncheon and Sports Club, Ltd.* (*W.N.*, 1929, p. 65), as to whether when bets are made on a totalizator they are not made by the backers *inter se*.

Borstal Schools.—Act No. 18 is based on the British Prevention of Crime Act, 1908, as amended by the Criminal Justice Administration Act, 1914. Hitherto the Bombay Children Act No. 13 of 1924 applied only to persons under 16 years of age. The new Act enables youthful offenders up to the age of 21 who have been sentenced to imprisonment to be transferred to a Borstal School there to undergo industrial and other training during the period of their detention.

The remaining Acts passed in 1929 were of minor importance.

4. BENGAL.

Acts passed—3.

Children.—Act No. 3 amends the Bengal Children Act No. 2 of 1922, for the purpose of providing one central criminal court for Calcutta and its neighbourhood, for the trial of juvenile offenders by experienced magistrates.

This was the only Act of any importance passed during the year.

5. UNITED PROVINCES.

Acts passed—12.

Land Revenue.—The Joint Parliamentary Committee appointed to consider the Government of India Bill which afterwards became part of the Government of India Act [1] recommended that the process of settlement for the purpose of revising the land revenue assessments should be brought under regulation by Statute. They were of opinion that the time had come to embody in the law the main principles by which the land revenue is to be determined, the methods of valuation, the pitch of assessments, the period of revision and other matters. Act No. 1 is

[1] 5 & 6 Geo. V, c. 61; 6 & 7 Geo. V, c. 37; and 9 & 10 Geo. V, c. 101.

intended to give effect to these recommendations. Among other matters it lays down that the normal amount of revenue to be assessed on the land shall be 40 per cent. of the net assets, and that the normal term of settlement shall be forty years, but in both cases the Act lays down circumstances justifying a departure from the normal. Details of the procedure to be followed by settlement officers are provided for by rules to be made by the local government.

Protection of Girls.—Two Acts were passed in the year for the purpose of dealing with the problem of traffic in minor girls. The first of these, Act No. 2, is concerned solely with the girls of the Naik caste, a community which makes a practice, particularly in the Himalayan districts of the United Provinces, of bringing its girls up to a life of prostitution. The Act enables the district authorities to restrict the movement of these girls, or to place them under proper custody or guardianship. The provisions of this measure were later in the year extended by Act No. 8 to any other community or class of people in the province who may be declared by the government to be in the habit of devoting its girls to prostitution. This second Act also renders liable to imprisonment any person who persuades a female to leave her usual place of abode for immoral purposes.

The other Acts passed in the year were of merely local importance.

6. PUNJAB.

Acts passed—8.

Gambling.—Act No. 1 amends the Public Gambling Act of 1867 in its application to the province for the purpose of dealing with a particular form of gambling known as *Satta*, which is in the nature of a lottery, but is not covered by the provisions of the Indian Penal Code dealing with lotteries. It is described in the Act as " gaming on any figures or numbers or dates to be subsequently ascertained or disclosed or on the occurrence or non-occurrence of any natural event."

Adulteration of Food.—Act No. 8 replaces the Punjab Adulteration of Food Act of 1919, the administration of which had been found to present many difficulties. The general provisions of the new Statute are based on the model of the New Zealand Sale of Food and Drugs Act, 1908. Special sections are designed to check the adulteration with vegetable oils of *ghi*, a substance derived from milk, which is universally used in Indian cooking.

The other Acts were of little interest.

7. BURMA.

Acts passed—4.

Wild Animal Protection.—The only Act of any importance was Act No. 4, which makes it an offence to possess or deal in the horns of a rhinoceros or of a stag in velvet, both of which animals are protected all the year round.

8. BIHAR AND ORISSA.

Acts passed—3.

The three Acts passed made amendments of some local importance in the laws dealing with agricultural tenures in various parts of the provinces, but they were not of general interest.

9. CENTRAL PROVINCES.

Acts passed—8.

Opium.—Act No. 1 enables officers of a certain rank in the Excise Department to exercise in regard to opium offences powers hitherto vested in the officer in charge of a police station, and in particular enables an excise officer to admit to bail an offender arrested by him and to investigate an offence and send the accused person for trial.

Act No. 4 deals with opium smoking. Like legislation in other provinces it makes it an offence for two or more persons to be together with the common object of smoking opium. It contains a special provision which is to come into operation at the expiration of three years from the date on which the Act is brought into force, making the smoking of opium by any person anywhere an offence punishable with imprisonment which may extend to three months, or with fine, or with both. In this respect the Act follows the legislation passed in Assam in 1927.[1] It appears, however, that the local government has not yet issued the notification necessary to bring the Act into force.

Land Revenue Settlement.—Act No. 6 is another measure based on the recommendations of the Joint Parliamentary Committee to which was referred the Government of India Act.[2] Its provisions are not so elaborate as those of the United Provinces Act No. 1 of the same year referred to above.[3] It lays down thirty years as the normal term of settlement, but enables the local government in special circumstances to shorten or to extend this term. It fixes the land revenue at 50 per cent. of the assets, but enables the local government to reduce the percentage for special reasons.

Juvenile Smoking.—Act No. 8 imposes the penalty of a fine on any person selling or giving tobacco to a child apparently under the age of 16 years, and where any boy apparently under that age is found smoking tobacco in any public place the Act enables school teachers, members of a legislature or of a local authority, legal practitioners and registered medical practitioners to seize the tobacco and destroy it.

10. ASSAM.

Act passed—1.

Land Tenures.—Act No. 1 is a measure of considerable local importance containing nearly 200 sections amending and consolidating the law relating to landlords and tenants in one district of Assam. The subject is a highly technical one and the provisions of the Act could not be readily or usefully summarized.

11. COORG.

Acts passed—nil.

12. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT.

Regulations made—2.

The first Regulation validated certain divorce proceedings taken up and disposed of by the Chief Commissioner, Andaman and Nicobar

[1] See *Journal of Comparative Legislation*, Third Series, vol. xi, pt. iii, p. 166.
[2] 5 & 6 Geo. V, c. 61; 6 & 7 Geo. V, c. 37; and 9 & 10 Geo. V, c. 101.
[3] See p. 123 *supra*.

Islands, acting on the presumption that he exercised the powers of a High Court under the Indian Divorce Act, 1869. It transpired that the powers of a High Court under that Act in respect of the Islands vest in the High Court of Judicature at Calcutta.

The second Regulation was of little importance.

13. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT.

One Ordinance was promulgated in 1929 with the object of checking the dissemination in British India from other countries of certain forms of propaganda. It enabled the government to direct the removal from British India of persons advocating the overthrow by force of the established government, or seeking to foment or utilize industrial or agrarian disputes with the same object. It did not apply to an Indian British subject, or a British subject ordinarily resident in India, or to the subject of a State in India. It also enabled the government to forfeit moneys intended to be utilized for the purpose of subverting organized government in British India. The necessity for the Ordinance arose from the fact that the President of the Legislative Assembly had ruled that consideration of a bill on the same lines then pending in the Legislature was barred by reasons of the fact that a criminal case had been instituted against thirty-one alleged communists on a charge of conspiring to deprive the King of the sovereignty of British India. The President had advised the government either to withdraw the conspiracy case or to postpone the consideration of the Bill till the conclusion of the trial. The government made it plain that they could not accept either of these suggestions, and, because the President's ruling created a deadlock in the matter of legislation which the government regarded as vital, the Governor-General exercised his special powers to promulgate an Ordinance.

VIII. EASTERN COLONIES.

1. CEYLON.

[*Contributed by* C. C. A. Brito-Mutunayagam, Esq., B.C.L., M.A., *Assistant Legal Draftsman.*]

Ordinances passed—27: Public—26; Private—1.

Aerial Navigation.—The Aerial Navigation Ordinance No. 24 of 1914 is repealed by No. 25, as all powers necessary for regulating aerial navigation are now contained in the Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1927.

Companies.—S. 14 of the Joint Stock Companies Ordinance, 1861, as amended by Ordinance No. 35 of 1916, read as if the new requirement that the memorandum of association and the articles of association of companies should be published in three consecutive weekly issues of the *Gazette* applied even to companies registered before 1916. As such publication was not necessary before 1916, the amending Ordinance of that

year seemed likely to invalidate the incorporation of some of the older companies. No. 11 therefore declares such companies validly incorporated in spite of the present requirements.

Criminal Law.—The inadequacy of s. 450 of the Ceylon Penal Code, 1883, to cover the customs premises by reason of the interpretation given by the courts to the word "enclosure" in that section, is made good by No. 23, which extends s. 8 of Ordinance No. 1 of 1871 so as to permit regulations to be made relating to the admission, exclusion and conduct of persons within such premises.

Fishing.—The right to fish for chanks in waters where such fishing is now prohibited by s. 9 of the Chanks Ordinance, 1890, is by No. 9 permitted if done in accordance with rules framed by the Governor in Council by virtue of this Ordinance.

Loans.—No. 26 authorizes the raising of loans for the purposes indicated in the schedule, and s. 7 provides for repayment to general revenue of sums expended on those purposes. S. 4 specifies the method of raising the loan, s. 2 fixes the maximum and s. 10 permits Treasury bills to be issued in anticipation of the issue of the loan.

Local Government.—Elections of village committees and local boards have to be held at stated intervals and within specified periods of the year. As difficulties are sometimes experienced in complying with these requirements of the law and it is desirable that some provision should exist for holding such elections later than is now permissible, No. 2 and No. 12 provide the necessary powers in the case of local boards and village committees respectively.

No. 21 recasts and simplifies in accordance with experience the existing provisions regarding municipal budgets.

The powers of a local authority under s. 40 of the Cemeteries and Burials Ordinance, 1890, may, by virtue of No. 14, be exercised by the chairman.

A local authority's power to deal with rabies is by No. 6 extended, and it will hereafter be possible for such an authority, after proclaiming that rabies exists in any area within its jurisdiction, to order the destruction of dogs straying there in public places.

The existing pension rules made by road committees are declared valid by No. 13, and this Ordinance besides provides for the future express authority for such rules.

Provision for the transfer to a local authority of the rights and liabilities, etc., of the Board of Improvement Commissioners appointed under s. 30 of the Housing and Town Improvement Ordinance No. 19 of 1915 is contained in No. 3.

Maintenance Orders.—Where reciprocal arrangements for the enforcement of maintenance orders are made with any British possession or territory the provisions of the Maintenance Orders (Facilities for Enforcement) Ordinance No. 15 of 1921 were declared by s. 12 of that Ordinance to apply to such orders "as if they had been made in England." But the procedure contemplated in the case of English maintenance orders proved both onerous and circuitous when applied to the orders made in possessions, etc., especially in connexion with the requirements of ss. 3, 5 (1) and 11. No. 24 therefore provides that in such cases the principal Ordinance applies "as though the references to England or Ireland were references to such possession or territory and reference to the Secretary of State were reference to the Governor."

Marriage Law.—No. 18 authorizes assistant provincial registrars and provincial registrars to accept all notices of marriages which registrars under their respective jurisdiction are entitled to accept. The reason for this amendment is that the registrars in the rural districts are often ignorant of English, and therefore, where the parties giving notice of a marriage are ignorant of the vernacular, errors frequently occur in the records that the registrars have to keep. As provincial registrars and assistant provincial registrars know English, persons unfamiliar with the vernaculars but knowing English are now afforded the opportunity of giving notice to one with whom they can communicate without an interpreter.

No. 27 repeals the Second Title of the Code of Mahomedan Laws of 1806, which was an unsatisfactory and incomplete attempt to codify the Muslim law concerning matrimonial affairs, but it preserves the existing Muslim common law of marriage and divorce and the rights of Muslims under that law. The Ordinance also repeals the whole of the Mahomedan Marriage Registration Ordinance No. 8 of 1886, and replaces it by other provisions which differ from the repealed Ordinance in many respects. Under the law prior to this Ordinance registration of a marriage between Muslims was optional, and such registration, though it afforded the best evidence of the marriage, did not constitute the sole proof of the marriage. Nor did registration validate a marriage which according to the Muslim law of marriage was invalid. This Ordinance, while providing that marriages may be proved by other evidence than registration and that registration does not validate a marriage otherwise invalid, makes registration compulsory and imposes a penalty for non-registration. But as it would be a violation of the Muslim religious law to invalidate on account of non-registration a marriage which according to that law is valid, the provision in Ordinance No. 8 of 1886, that non-registration of a marriage shall not invalidate an otherwise valid marriage, has been retained. The Ordinance also re-enacts in an amended form the provisions in Ordinance No. 8 of 1886, relating to incestuous carnal knowledge, the licensing of Muslim registrars, the form of registration and the forwarding of duplicates to the provincial registrars (Parts I and II and ss. 29 and 43 of Part III). Part III of the Ordinance lays down a procedure for effecting divorces between Muslims and provides for the appointment of *Kathis* who are empowered to make inquiries and grant divorces. An appeal is provided from their decision first to a Board of Kathis and finally to the Supreme Court. Registration of divorces is made compulsory and a penalty is imposed for non-registration. Part IV of the Ordinance invests Kathis with further powers and prescribes the procedure to be observed in proceedings before them. It also contains provision as to the custody and inspection of registers and books and for the making of rules for the various matters connected with the carrying out of the provisions of the Ordinance. In 1925 it was held by the courts that divorces by Muslim wives effected through the agency of Muslim priests were invalid, and that such divorces could be properly made only by proceedings before a civil court. In view of the large number of divorces which are affected by this decision, s. 23 prescribes a procedure for their validation, subject to specified conditions, where those divorces were effected before April 1, 1925, and the parties so divorced have remarried. Power is given to the Governor in Executive Council by ss. 44 and 45 to issue directions as to any matters necessary for the administration of the Ordinance and not provided for therein, and generally to make orders

to meet difficulties which may arise in bringing the Ordinance into operation.

Motor Vehicles.—No. 22 amends the Motor Car Ordinance, 1927, to give effect to certain recommendations made by a Committee appointed to consider difficulties that became apparent when the 1927 Ordinance came to be applied. The amendments are mostly on matters of detail and deal with brakes (s. 6), driving mirrors (s. 7), lights (s. 8), identification plates (s. 13), licence holders (s. 17), etc. Provisions of a more general nature are made for the registration of the ownership in cars bought on a hire purchase agreement for which the existing law was inadequate (ss. 18, 22 and 25), for the issue of temporary certificates of competence (s. 37) and for the recognition of international certificates (s. 19). The other amendments introduced by this Ordinance are to meet peculiarly local needs.

Poisons, Opium and Dangerous Drugs.—The object of No. 17 is to give effect to the Opium Conventions signed at Geneva on February 11 and February 19, 1925. To give proper effect to these Conventions would have required numerous alterations in the existing law, so it was considered desirable to prepare an amending and consolidating Ordinance. This Ordinance accordingly incorporates with the necessary amendments the substance of the existing Ordinances and rules. The most important alteration made by the new Ordinance, from the administrative point of view, is in the method of control over the import and supply of " dangerous drugs." The import and distribution of these drugs were controlled by different authorities and under different Ordinances. There seems to be no good reason for these distinctions, and, in fact, in view of the elaborate system of control required by the conventions, a system of dual control would be hardly practicable. Under the new Ordinance the control of the import and supply of all dangerous drugs is vested in the Director of Medical and Sanitary Services alone. C. II defines poisons, enumerates the classes of persons entitled to supply poisons (ss. 6–12) and lays down the rules which are to govern the labelling, storing and supply of poisons (ss. 16–22). It supersedes the Poisons Ordinance and the regulations made thereunder. Provision is made by s. 24 for the purchase of samples of drugs or poisons and for the analysis of the same by duly authorized officers. S. 25 defines the plants known as the poppy plant, coca plant and hemp plant, and c. III deals with their cultivation, importation, consumption, etc. These definitions are founded on Art. I of the Second Geneva Convention. C. IV and the regulations in the Second Schedule reproduce the substance of the present system of the control of opium contained in the Opium Rules of June 16, 1915. " Medicinal opium " is classed as a " dangerous drug " under c. V. Therefore no provision is made in this chapter for the supply of medicinal opium to the persons requiring it, such as medical practitioners, dispensers or planters. The definition of raw opium in s. 30 is taken from Art. I of the Second Geneva Convention. S. 46 defines " dangerous drugs," adopting the definition set out in s. 3 of the Dangerous Drugs Act, 1925, and c. V deals with their importation, use, manufacture, etc. S. 57 lays down conditions which are to govern prescriptions of dangerous drugs by medical practitioners, dentists and veterinary surgeons. C. VI and the Sixth Schedule give effect to Arts. 15, 16 and 17 of the Second Convention, and are intended to prevent the diversion of " restricted articles " to a destination other than that for which the export authorization was granted, and by s. 65

" restricted articles " include raw opium, poppy, coca and hemp plants, bhang, ganja, hashish and allied substances, and " dangerous drugs " as defined in c. V. S. 74 is designed to facilitate the prevention of the international drug traffic, and provides that a person who in any way furthers the commission in any place outside Ceylon of an act punishable under the provisions of any corresponding law in force in that place, or of an act which if committed in Ceylon would be an offence, is to be deemed guilty of an offence under the Ordinance.

Saving Certificates.—No. 20 provides for the institution in Ceylon of a system of post office cash certificates, similar to the system of cash certificates and national savings certificates in force in India and the United Kingdom respectively, as it is hoped that by the institution of this system, the small investor may be encouraged to practise thrift, since it will provide a safe investment on a small scale. By s. 3 (1), cash certificates may be issued on the direction of the Governor when authorized by a resolution of Legislative Council. Under ss. 7 and 8 all moneys paid for cash certificates will be paid into a Cash Certificates Fund, and the Colonial Treasurer as trustee of the Fund may, after reserving a portion of the Fund for meeting current demands for surrender values, invest the remainder in certain specified investments. The portion so reserved may be insufficient at any time, but the demands must nevertheless be met, and it is therefore provided in s. 3 (2) that a new issue of cash certificates may be directed by the Governor for that purpose. In order to protect the purchasers of cash certificates, s. 4 provides that the surrender values of certificates are charged upon the general revenue of the Island, and s. 5 requires the name of the purchaser, the purchase price and the surrender values of every certificate to be written or printed thereon at the time of issue. S. 6 gives the Governor in Council power to make regulations for the details of the system, which could not be settled in advance, and may require alteration from time to time. The purposes for which the Cash Certificates Fund may be used are set out in s. 8. They include loans, investments and deposits of various kinds. It is possible that there will be some slight loss in the working of the system, but it is anticipated that a judicious use of the investments authorized by this section will reduce the loss to a minimum, against which may be set the social benefit to be derived from the promotion of thrift. An annual statement of account will be prepared showing the working of the system and will be published in the *Gazette* after audit (clause 10).

Shipping.—Certificates of competency issued in any British possession, protectorate or mandated territory may, by virtue of No. 7, be recognized by the Governor in Council as sufficient for the purposes of the Merchant Shipping Ordinance, 1863, provided that the standard of efficiency required in the possession, protectorate or territory are similar to that in Ceylon and that reciprocal recognition is extended to Ceylon certificates by the possession, protectorate or territory in question.

Stamps.—All transfers of shares were stampable on an *ad valorem* basis under item 22 (*b*) of Schedule B of the Stamp Ordinance, 1909. As the notice of a trust cannot be entered in the books of a company (s. 22, the Joint Stock Companies Ordinance, 1861), shares left in trust are generally transferred to the beneficiary. As such transfers are not made for a consideration, No. 4 provides that on satisfactory proof that this is the real nature of the transaction such transfers may be stamped at the nominal fixed rate of Rs. 10.

2. HONG KONG.

[*Contributed by the* Hon. Mr. C. G. Alabaster, K.C., O.B.E., *Attorney-General.*]

Ordinances passed—34.

Bankruptcy.—Ordinance No. 2 introduces two provisions of the English law which did not appear in the principal Ordinance (No. 7 of 1891), though they appear in the Act of 1890, on which the Ordinance was generally based, and in the Act of 1914. These are a provision that on an application for discharge the report of the Official Receiver as to the bankrupt's conduct and affairs shall be taken into consideration, and that such report shall be *prima facie* evidence of the statements it contains.

Tobacco.—Ordinance No. 3 adopts, in the case of tobacco manufactured locally, the principle of taxing the raw leaf on importation in place of the previous system of taxing the manufactured product. It contains also a provision based on the Tobacco Act, 1840 (3 & 4 Vict., c. 18), imposing penalties for fraudulently attempting to obtain drawback.

Unclaimed Balances.—Ordinance No. 5 provides for the transfer of unclaimed balances to the general revenue of the Colony. Legal claims to such balances may be made by petition to the Supreme Court and moral claims by petition to the Governor in Council.

Sunday Cargo Working.—Ordinance No. 7 requires permits for working cargo on Sundays, the scale of fees depending on the register tonnage.

Jury Lists.—Ordinance No. 8 provides for the preparation by the Registrar of the Supreme Court of lists of special and common jurors which are to be posted for fourteen days and then finally settled by the Governor in Council.

Widows' and Orphans' Pensions.—Ordinance No. 9 exempts officers contributing to an approved Widows' and Orphans' Pension Scheme of some other part of H.M. Dominions from liability to contribute also to the local scheme.

Bank Notes.—Ordinance No. 11 extends for a further ten years the right of the Mercantile Bank of India Ltd. to make, issue, re-issue and circulate bank notes in the Colony.

Mui-tsai.—Ordinance No. 13 makes it an offence to take any part in any transaction an object of which is to transfer the possession of any minor under the age of 18 for any valuable consideration, unless the person charged proves beyond all reasonable doubt that the transaction was *bona fide* and solely for the purpose of a proposed marriage or adoption in accordance with Chinese custom. Marriage and adoption are excluded because it is customary for presents of money to be made on such occasions, although such payments confer no rights of property. Ordinance No. 21 vests in the Secretary for Chinese Affairs the legal guardianship of any girl under eighteen whose parent has voluntarily parted with her custody. Ordinance No. 22 forbids the bringing into the Colony of Mui-tsai who have not been previously registered in the Colony.

Accessories and Abettors.—Ordinance No. 14 is based on the Act of 1861 (24 & 25 Vict., c. 94).

Maintenance Orders.—Ordinance No. 15 repeals s. 12 of Ordinance No. 9 of 1921 and provides that where the Governor is satisfied that reciprocal provisions have been made in any British possession or pro-

tectorate for the enforcement of Hong Kong orders, the Ordinance may be extended thereto by proclamation.

Arrest and Bail.—Ordinance No. 18 contains provisions based on s. 22 of the Criminal Justice Administration Act, 1914 (4 & 5 Geo. V, c. 58), and s. 45 of the Criminal Justice Act, 1925 (15 & 16 Geo. V, c. 86).

British Uniforms.—Ordinance No. 19, which is based on the Act of 1919 (9 & 10 Geo. V, c. 62), makes it an offence for a person not entitled to wear the British Mercantile Marine uniform to do so, except for stage purposes, and for a person entitled to wear it to do so in such circumstances as to bring it into contempt. Ordinance No. 20 extends to Air Force uniforms the protection already given to Naval and Military uniforms by Ordinance No. 4 of 1895.

Industrial Employment of Women.—Ordinance No. 24 makes a further step in the improvement of factory conditions in the Colony and brings women and young persons within the scope of Ordinance No. 22 of 1922, which had been previously limited to children.

"China" Companies.—Ordinance No. 31 enables "China" companies (that is to say companies registered under the Hong Kong Companies Ordinances and the operations of which are directed and controlled from some place within the limits of the China Orders in Council), if so authorized by their Articles to keep branch registers in the United Kingdom or in any British possession or protectorate although they carry on no business in the place where the branch register is kept.

Arms and Ammunition.—Ordinance No. 32 increases the scope of Ordinance No. 2 of 1900 as to the possession of arms and ammunition by reducing the number of exempted persons and by requiring licences in the case of arms carried by any vessel trading in the piracy zone, that is to say "any vessel (*a*) which regularly includes in its ports of call any place on the east coast of Asia between Vladivostok and Singapore inclusive, or any place on any river flowing into the sea on the east coast of Asia between Vladivostok and Singapore, or any place in Formosa; and (*b*) the usual extreme trading limits of which do not extend beyond the places specified above."

Deportation of Aliens.—Ordinance No. 34 amends s. 3 (2) of the principal Ordinance (No. 25 of 1917) so as to make it conform with the language of the Aliens Order, 1920, in force in the United Kingdom.

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

1928.

Ordinances passed—26.

Cinematograph.—No. 5 re-enacts with amendments Ordinance No. 200 (Cinematograph Films), passed in 1924.[1]

S. 8, to save the censor's time, hitherto spent in witnessing the projection of a large number of reproductions of the same film, as strict compliance with the law required, now empowers him to mark duplicates of a film which he has already authorized for exhibition, without viewing them anew, but solely relying upon a statutory declaration made by the owner

[1] See vol. iv, p. 978, of the *Revised Ordinances*. This Revised Edition (of 1926) of the Ordinances gives new titles and serial numbers to all the Ordinances passed since 1867 up to the date of its publication.

that such duplicates are identical, in every respect, with the one approved for exhibition.

With a view to permitting review or revision of decisions in the light of altered circumstances or ideas, s. 16 makes the decision of the Committee of Appeal (as to whether or not a film should be passed for exhibition) not final, as hitherto, but subject to reconsideration upon the order of the Colonial Secretary.

S. 17 modifies and expands the provisions regarding search for unauthorized films; and two new sections (22 (*c*) and 23) authorize search of places where lewd or obscene films are suspected to be kept for private exhibition or use, and penalize possession thereof.

Immigration Restriction.—With a view on the one hand to stemming the tide of unemployment under existing conditions of trade and local industries (*e.g.* tin and rubber), and, on the other hand, preventing overcrowding in the face of the present lack of housing accommodation, Ordinance No. 11 aims at counteracting, above all, the influx of unskilled labourers who often arrive as deck-passengers to engage in domestic service or other manual labour.

S. 6 severely penalizes the master, owner, charterer and agent of any ship bringing in such labourers, contrary to the terms of any Proclamation issued by the Governor.

S. 9 provides for the removal of prohibited immigrant labourers, and makes the master, owner, charterer and agent of the ship liable for the cost of maintenance and removal of labourers discovered in port after the ship has departed.

S. 10 provides for the detention of a ship, unless security is given, when legal proceedings have been or are about to be instituted for breaches of the law, and for its eventual sale, in case of condemnation.

1929.

Ordinances passed—24.

Limitation.—By the law of the Colony,[1] encroachments on land, combined with adverse possession for certain prescribed periods, gave a "possessory title," which, however, did not, as in England, extinguish the title of the legal owner, but merely barred his remedy. The new s. 25 of Ordinance No. 10 (derived from the Real Property Limitation Act, 1833,[2] s. 34), now extinguishes the right, as well as the remedy by suit, of the person out of possession.

Estate Duty.—No. 11 amends, and at the same time constitutes as a separate Ordinance, those portions of Ordinance No. 103 (Stamps)[3] which relate to estate duty. The principal amendments are as follows: (i) Exemption is granted to annuities not exceeding $200, and pensions payable to the widows and orphans of officers who have served in British possessions and protectorates (s. 10); (ii) The Commissioner may remit duty on property of natural, scientific or historic interest given for public purposes (s. 11); (iii) Where property of a deceased person passes to the wife or husband of such person for a life-interest only, no further estate duty will be levied in respect of it on the death of such wife or husband (s. 13); (iv) Exemption is granted in cases where duty has been paid in

[1] Ordinance No. 56 (Limitation)—*vide Revised Edition of Ordinances*, vol. i, p. 734.
[2] 3 & 4 Will. IV, c. 27.
[3] *Revised Edition of Ordinances*, vol. ii, p. 815.

another part of the Empire on the same property (s. 19); (v) Estate duty becomes a first charge on the immoveable property of the deceased (s. 20); (vi) Estate duty ceases to be stamp duty (s. 21); (vii) The liability of an accountable person for estate duty is limited to six years from the date when the account was settled (s. 24); (viii) Interest on estate duty is now payable at a fixed rate of 6 per cent., instead of being graduated, and will cease to run if a deposit is given as security for the payment of the duty (s. 26); (ix) Certificates are to be issued discharging property and accountable persons from further claims for duty (s. 32); (x) Penalties are imposed for delay in furnishing accounts of property liable to duty (s. 33), but the Commissioner may reduce any penalty (s. 39). The *rates* of duty remain unaltered.

Stamps.—Ordinance No. 16 re-enacts, with amendments, those portions of Ordinance No. 103 (Stamps) which are not absorbed in the preceding Ordinance, and which relate exclusively to stamp duties, as distinct from estate duty. In some few cases the rates of stamp duty are altered; in others, certain amendments bring the law of the Colony in closer analogy to that of England. The more important amendments are as follows: (i) In stamping books of cheques, adhesive labels are affixed only to the covers; and, in future, the Commissioners may allow a similar procedure in case of other instruments contained in books (s. 7); (ii) Relief from duty, on the lines of the Finance Act, 1927,[1] s. 55, is given in certain cases of reconstruction or amalgamation of companies (s. 13); (iii) A voluntary disposition *inter vivos*, which is also a settlement, is to be chargeable as if it were a conveyance or transfer on sale (s. 14); and the same applies to a decree or order for foreclosure in respect of mortgaged property (s. 16); (iv) An instrument settling money which may be due under a life policy is made chargeable with *ad valorem* duty (s. 25); (v) An instrument under hand only, given upon the deposit of a share warrant by way of security for a loan, is made chargeable as an agreement; and an instrument under hand making redeemable a duly stamped (with $5) transfer, intended as a security, of any registered stock is also to be chargeable as an "agreement" (s. 27); (vi) A "continuation" or "carrying-over" contract note, though made both in respect of a sale and a purchase, is to be chargeable as if it related to one only of those transactions (s. 30); (vii) Transfers of foreign shares and marketable securities are exempted from duty (s. 33); (viii) The current, but dubious, practice of permitting any instrument, whensoever executed, to be stamped under penalty is now formally legalized (s. 43); (ix) When any person, other than the person legally liable, has paid any duty or penalty in respect of any instrument, the first-mentioned person is now entitled to recover the same from the latter (s. 52); (x) The provisions of Ordinance No. 103 (Stamps) relating to the licensing of stamp-vendors are omitted as unnecessary.

Schedule A modifies the *rates* as follows: (i) An instrument appointing a receiver under a mortgage is made chargeable with a $5 duty (Item 5); (ii) A flat rate of 15c. is charged on all share-transfers, blank or otherwise, instead of the previous rates of 30c. and 10c. respectively (Item 21); (iii) The scale of duty on leases is altered so that the rates previously chargeable on leases of five years or less are, in future, to be charged on leases of three years or less, or for any indefinite period (Item 41); (iv) An equitable mortgage is charged at half the rate of a legal mortgage for the

[1] 17 & 18 Geo. V, c. 10.

amount secured (Item 44); (v) Duty on time-policies of hulls of ships for periods not exceeding six months is reduced. Policies covering a vessel or her machinery or fittings, whilst under construction or repair, or on trial, are chargeable at 25c. Policies containing a continuation-clause are to pay an additional 25c. (Item 48); (vi) The duty on accident policies (Item 48) and on share certificates (Item 60) is raised from 4c. to 5c. to enable them to be stamped after execution without penalty; (vii) A revocation of a power of attorney is chargeable with $3, instead of $5 (Item 57); (viii) Settlements by way of sale or gift are to be charged at the same rate as conveyances (and not, as in the past, as mortgages). A settlement executed in pursuance of a duly stamped agreement for the same is to be charged at $1, instead of $5 (Item 59).

Trustees.—No. 14 substitutes for Ordinance No. 144, passed in 1914,[1] a measure framed on the lines of the new Trustee Act, 1925, of the United Kingdom,[2] the principal innovations being the following: (i) Trustees are authorized to invest trust funds in leasehold securities in the Colony having an unexpired term of sixty years, and in certain securities of the Federated Malay States (s. 4); (ii) A trustee, unless expressly prohibited by the instrument creating the trust, may invest in securities payable to bearer, which, if not so payable, would have been authorized investments; but he must thereafter deposit the securities for safe custody with a banker (s. 8); (iii) Trustees, when lending money, may contract that it shall not be called in during any period not exceeding five years. On a sale of land, they may contract that the payment of a part, not exceeding two-thirds, of the purchase-money shall be secured by mortgage of the land sold. Where securities of a company are subject to a trust, the trustees may concur in any arrangement for the reconstruction of the company, for the sale of any of its property to, or its amalgamation with, any other company, and, if any preferential right is offered to the trustees in respect of their holding, they may exercise, or renounce, or assign it (s. 11); (iv) A trustee under a trust or power for sale may sell part of the land, dividing it horizontally, vertically or otherwise. Leave of the court is not required to sell minerals apart from the surface, or *vice versa* (s. 13); (v) A sole trustee, not being a trust corporation, cannot give a valid receipt for the proceeds of sale or other capital money arising under a disposition on trust for the sale of land, notwithstanding anything to the contrary in the trust instrument (s. 15); (vi) A personal representative, or two or more trustees acting together, or, in some cases, a sole acting trustee, may accept any property before the time at which it is made payable, and may sever and apportion blended trust funds (s. 16); (vii) When trustees are authorized to apply capital money to any purpose, they shall be deemed always to have had power to raise the money required by sale or mortgage, notwithstanding anything to the contrary in the trust instrument. This does not, however, apply to a trust for a charity (s. 18); (viii) A trustee may insure trust property against loss by fire up to the full value of the property (s. 21); (ix) Trustees and personal representatives may employ agents to sell or manage property outside the Colony (s. 25); (x) A trustee intending to remain out of the Colony for more than one month may delegate, by power of attorney, the execution of the trusts; (xi) the protection previously accorded to executors and

[1] *Vide Revised Edition of Ordinances*, vol. iv, p. 306, and *Journal of Comparative Legislation* (N.S.), vol. xvi, Review, p. 63.

[2] 15 Geo. V, c. 19.

administrators by advertising for claims, and that against liability under a lease or conveyance on assigning to a purchaser, are extended to trustees (ss. 28–29) ; (xii) A more elaborate maintenance clause (s. 33) is enacted in place of s. 42 of Ordinance No. 39 (Conveyancing and Law of Property[1]); (xiii) A statutory " protective trust " is created (s. 35) similar to that often found in a will or settlement, where the improvidence of the legatee or beneficiary is apprehended. It is sufficient now to direct that the fund is to be held on " protective trusts " ; (xiv) In the case of future settlements and dispositions on trust, other than those for charitable or public purposes, the number of trustees is not to exceed four (s. 36) ; (xv) The donees of a power of appointment of new trustees may appoint themselves, and a new trustee may be appointed in place of an infant. Additional trustees may be appointed, although there is no vacancy, but in no case must the total number of trustees exceed four (s. 37) ; (xvi) When the court appoints a trustee, it may authorize him to charge for remuneration for his services (s. 43) ; (xvii) The court may now authorize trustees to do acts which, though *ultra vires*, are, in the opinion of the court, expedient (s. 54).

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

1928.

Enactments passed—32.

Deleterious Drugs.—No. 16 repeals Enactment No. 6 of 1925,[2] and facilitates the execution of the obligations undertaken by the British Government in the International Opium Convention of 1925.

In form, the Enactment follows closely the Drugs Ordinance of the Straits Settlements (No. 7 of 1927),[3] the main differences consisting in the inclusion of hypodermic syringes within its scope, and the prescription of a licence fee, and of the dresser's licence (s. 7), which provisions, existing in the prior Enactment of 1925, are re-enacted.

The definition of " deleterious drug " being now made to include *Cannabis sativa ganja* (Indian hemp) and its derivatives, the Ganja Prohibition Enactments, passed in the individual States of the Federation in 1898–99, are repealed.

Medical practitioners, following the regulations made under the Dangerous Drugs Act, 1920,[4] are now relieved from the obligation to be licensed, under the Enactment, to possess, use or sell deleterious drugs in the course of their professional practice, s. 6 (vi) conferring on them a general authorization, which, however, is liable to be withdrawn either upon conviction for an offence under the Enactment, or even upon conduct arousing suspicion.

The power to take finger impressions of persons convicted under the Enactment is extended to the taking of their photographs (s. 24).

Suits by Government.—No. 20 is an attempt to modernize and codify the law on the subject, hitherto but fragmentarily provided for in cc. 30 and 41 of the Civil Procedure Code, which, though admitting the right of the subject to sue the government in tort, left quite undefined what that

[1] *Vide Revised Edition of Ordinances*, vol. i, p. 427.
[2] *Vide Journal of Comparative Legislation*, Third Series, vol. ix, pt. iii, p. 163.
[3] *Vide ibid.*, vol. xi, pt. iii, p. 177.
[4] 10 & 11 Geo. V, c. 46.

right amounted to, and what really was the nature and extent of the responsibility of the government for the tortious acts of its servants, two questions which, owing to the divergent opinions among the judges in the local courts, had recently led to protracted and inconclusive litigation.

S. 11 (i) now gives the subject the same right of action in tort against the government as he has against the officer; and it also, after defining "public officer" in s. 3 (ii), sets at rest the much-debated question as to the existence of the relation of "master and servant" as between the government and the public officer (s. 11 (ii)).

S. 12, introducing the distinction of English law between "*mis*-feasance" and "*non*-feasance," delimits the rights of the subject against the government in tort, restricting the liability to cases of negligence only. The government of the Federated Malay States had hitherto, without any statutory protection, in the exercise of its public duties, often undertaken works which in England are performed by public bodies with powers defined, and responsibilities limited, by Statute.

Divorce.—For the first time in the history of the Malay States No. 27 establishes, what had already been in existence in the neighbouring Colony since 1910,[1] the jurisdiction of the Supreme Court in matrimonial causes, empowered to pronounce the divorce of Christian married couples. The Enactment embodies the change effected in England[2] in 1923, by which a husband's adultery can now found a wife's petition for divorce.

The jurisdiction of the court is limited (s. 3), for dissolution of marriage, to the case of parties domiciled in one of the Federated Malay States; for nullity of marriage, to marriages celebrated there; and for judicial separation or restitution of conjugal rights, to the case of parties to the marriage residing there at the commencement of the proceedings.

1929.

Enactments passed—31.

Air Navigation.—This measure (No. 29), introduced and passed at the request of the Secretary of State for the Colonies with a view to establishing a general control and regulation of civil aviation, follows, in form, the "Air Navigation (Colonies, Protectorates and Mandated Territories) Order in Council, 1927," as amended on January 29, 1929, which applied *proprio vigore* to the Straits Settlements and other Crown Colonies, but not to the Federated Malay States. Considerations, both geographical and administrative, pointed to harmonizing the law in force in Straits Settlements and the Federated Malay States.

Auction Sales.—Hitherto auctions were governed by the Enactments of the individual States passed in 1905, but the scale of auctioneers' fees and commission therein prescribed had become so inadequate that it was disregarded in practice, except in the matter of court sales. No differentiation was, moreover, made in those Enactments between sales of moveable or immoveable property.

The present measure (No. 2) re-enacts the provisions of the 1905 laws with regard to the conduct of auction sales, with additions taken either from the English Sale of Goods Act, 1893, or from the Straits Settlements Ordinance No. 95 (Auctioneers' Licences). It no longer prescribes a scale of fees or commission, but empowers the judges, with the approval of the

[1] *Vide* Ordinance No. 123 in *Revised Edition*, vol. iii, p. 475.
[2] 13 & 14 Geo. V, c. 19.

Chief Secretary to Government, to do so by rules for court sales (s. 13). In private sales, the auctioneers' remuneration is left to the parties concerned.

Distribution of Intestates' Estates.—Hitherto the only legislative measure existing on this subject in the country was an Order in Council No. 23 made in 1923 in the State of Perak, which attempted to state Chinese law and custom in the form of an Enactment. In the Colony of the Straits Settlements, the law of England is in force, as modified or interpreted by judicial decision, so as to permit of " secondary wives " participating with the " principal wife " in the widow's share.[1]

The Perak Order in Council above referred to attempted to combine two principles, which, on analysis, were contradictory and unworkable—the division of the estate among the sons, and the maintenance of widows and daughters from the estate. Further, the denial of any share to women, inconsistent with modern tendencies, called for a remedy. Finally, the proximity of the Federated Malay States to the Colony, and their close connexion generally as forming part of the same peninsula, seemed to render it desirable that the law of the Colony should be introduced, with a possible exception as regards adopted sons. A Bill had recently been brought before the Federal Council, providing for adoption or the appointment of a successor in those cases where Chinese custom or religious tenets demanded it for the preservation of the family ; and it intended to recognize persons so adopted or appointed as " sons " for the purposes of effecting the distribution. The Bill, however, met with such opposition on the part of the Chinese themselves that it had to be withdrawn.

The present Enactment (No. 12) reproduces the law regarding intestacy that is in force in the Straits Settlements Colony, without any exception in favour of adopted sons, as provision for them can always be made, as in England or in the Colony, by means of a testamentary disposition.

Estate Duty.—No. 10 repeals the provisions of c. 6 of the Stamp Enactment, 1897, as amended by Enactment No. 11 of 1922, separates, as in the Straits Settlements, estate duty from stamp duties generally, and federalizes the prior State laws, not altering the rates of duty payable except in one unimportant respect.

(I) The number of exemptions is considerably increased, such as : (i) Gifts in consideration of marriage and allowances to children (s. 5 (iii)) ; (ii) Certain annuities (s. 8), and gifts of property of national or scientific value (s. 9) ; (iii) Property on enlargement of a settlor's interest (s. 10), and on reversion to a disponer ; (iv) Substantial relief is accorded in respect of quick succession (s. 12) ; (v) The estimate of " principal value" is modified (s. 12) and simple interest is charged (s. 23) ; (vi) Double taxation is avoided by deduction of duty paid elsewhere (s. 18), and liability to duty is carefully restricted (s. 23) ; (vii) Special facilities are provided for obtaining representation of small estates (s. 29).

(II) The inadequacy of the prior provisions relating to management and procedure is remedied, and additional precautions are taken against

[1] Cf. *Choo Ang Chee* v. *Neo Chan Neo and others,* commonly called the "*Six Widows' Case*" (12 Str. Settlements L.R. 120) ; *Cheang Thye Phin* v. *Tan Ah Loy,* [1920] A.C. 369 ; *Khoo Hooi Leong* v. *Khoo Hean Kwee,* [1926] A.C. 529 ; and the more recent appeal connected with the last, *Khoo Hooi Leong* v. *Khoo Chong Yeok,* [1930] A.C. 346.

evasions of duty, thus: (i) The Resident of each State becomes the "Chief Revenue Authority," and one collector of estate duties may be appointed; (ii) Estate duty, deemed due at the date of death (s. 24), becomes a first charge on the property (s. 19); (iii) "Life-interests" are more closely defined (s. 5 (ii)), and "trusts" are strictly limited (s. 6); (iv) The court, public officials and unofficials are legally bound to aid in protecting the revenue (ss. 39–42); (v) Certificates will be issued showing duties paid and properties declared (s. 38 (iii)); (vi) The Collector has absolute freedom in his inquiry (s. 31). He has additional powers in respect of damaged documents (s. 32 (vi)), and the fine for disobedience to his reasonable orders is doubled (s. 32 (iii)); but (vii) default in obtaining representation to a deceased person's estate is no longer a criminal act or omission (s. 30).

(III) Further facilities are provided for the payment of duty otherwise than in stamps (s. 26) and for deferred payment (s. 33 (v)), and a full procedure is enacted for refunds of excess payments (s. 34), and for appeals and references to the Supreme Court (ss. 36–37).

Opportunity has also been taken to legalize certain current practices, *e.g.* the dutiability of the moveable property situate abroad of persons dying domiciled in these States (s. 2 (xi)); the exemption (s. 8) of widows' and orphans' pensions, and gratuities under the Pensions Enactment, apportionment of accrued income (s. 27 (ii)); and collaboration of collectors of estate duty in other jurisdictions.

Executors' Powers and Fatal Accidents.—Continuing the progressive assimilation with the law of the Colony, Enactment No. 19 now introduces provisions corresponding to "Lord Campbell's Act," Indian Act No. 12 of 1855 and ss. 7 and 8 of Ordinance No. 111 (Civil Law) of the Straits Settlements.[1]

S. 3, following the Indian Act and the English Common Law, enables executors to sue, and be sued, for damage to or compensation from the estate of a deceased person.

S. 4 introduces the provisions of "Lord Campbell's Act," or the Fatal Accidents Act, 1846,[2] giving compensation to the families of persons killed by negligence or other actionable wrong, *e.g.* to the parent of a child killed by the negligent driving of a motor-car.

Public Authorities' Protection.—Following Ordinance No. 132 of the Straits Settlements, passed in 1912,[3] Enactment No. 20 substitutes, in favour of persons discharging public duties, a general protective clause against legal proceedings, in lieu of the multitude of clauses scattered through various Enactments. The only difference from the Straits Settlements Ordinance is that negligence may be alleged or pleaded as an alternative to malice.

Sanitary Boards.—No. 26 amplifies Enactment No. 13 of 1916,[4] which contained numerous enabling sections and a comprehensive set of rating provisions, everything else having been left to be regulated by by-laws, the validity of some of which was open to question, and many of which could more appropriately be placed in the substantive Enactment itself. This has now been effected by the new Enactment.

Further, the 1916 Enactment and the by-laws framed thereunder

[1] *Vide Revised Edition of the Ordinances*, vol. iii, p. 51.
[2] 9 & 10 Vict., c. 93.
[3] *Vide Journal of Comparative Legislation*, New Series, vol. xiv, Review, p. 86.
[4] *Vide ibid.*, New Series, vol. xviii, Review, p. 219.

imposed certain executive duties upon a Sanitary Board as the municipal authority; but the members of the Board could not perform such duties individually, and the Board not having been incorporated, could not employ servants or enter into contracts for the performance of those duties. The new Enactment therefore regularizes the legal position of Sanitary Boards, whose advisory and executive functions are separated. The executive functions become now vested in the Chairman of the Board, who is to exercise them on behalf of the Government in accordance with the advice of the Board, the Resident of the State being arbitrator in the event of a difference of opinion. The powers and duties now left to the Board as a Board are such as can be performed by its members, *e.g.* passing by-laws, settling assessment lists, approving plans, hearing objections, framing schemes and advising generally. The collection of rates and the general enforcement of the Enactment and by-laws are laid upon the chairman.

Part IX of the Enactment reproduces, with a slight extension (in s. 143), the Town-planning Enactment No. 4 of 1927,[1] which is therefore repealed.

Parts V (Fires), VI (Obstructions and Nuisances), VII (Streets and Buildings) are new, mainly taken from Ordinance No. 135 (Municipal) of the Straits Settlements.[2]

Workmen's Compensation.—Enactment No. 1 is the outcome of the Report of a Committee appointed to consider the advisability of legislation on the lines of the Workmen's Compensation Acts in force in England and elsewhere, the Committee having recommended legislation based on the Indian Act VIII of 1923.[3]

The Enactment follows the Indian model in confining the term "workmen" to persons employed in specific occupations set out in Schedule III, which is subject to modification by resolution of the Federal Council. Persons so employed who, not being manual labourers, draw a salary exceeding $200 a month, casual labourers not employed for the purposes of the employer's trade or business, government servants eligible for pension and members of the police (s. 2) are excluded from the scope of the Enactment. Disobedience to orders on the workman's part does not necessarily disentitle him to compensation (s. 3).

Slight modifications of the provisions of the Indian Act, which occur, *e.g.* in ss. 11, 15, 16, 23 (ii) and 30 have mainly been adopted from the English Act of 1925.[4] On the other hand, certain sections of the Indian Act, which were considered to be inapplicable, have been omitted. An original feature of the Enactment is that the controller is empowered (ss. 8, 11) to give notice to, or (s. 23) appear before the commissioner on behalf of, a workman.

5. MAURITIUS.

[*Contributed by* R. M. D'UNIENVILLE, ESQ., *Acting Procureur-General.*]

Twenty-eight Ordinances were passed by the Council of Government and assented to by the Governor during the year 1929, of which the following are the most important:

[1] *Vide Journal of Comparative Legislation*, Third Series, vol. xi, pt. iii, p. 181.
[2] *Vide Revised Edition of Ordinances*, vol. iv, p. 25.
[3] *Vide Journal of Comparative Legislation*, Third Series, vol. vii, pt. iii, p. 146.
[4] 15 & 16 Geo. V, c. 43.

Sugar Industry.—The Sugar Export Duty (Refund) Ordinance, No. 1, suspends the payment, on the sugars of the 1928–29 crop, of the export duty of 50 cents per 100 kilogrammes leviable under Art. 13 of the Sugar Industry Loan Ordinance, 1926, and it further provides for the refund of the duty which had been paid on the sugars of such crop prior to the commencement of the Ordinance.

The Sugar Industry Loan Ordinance, No. 6, authorizes the Governor to borrow £200,000 from the Crown Agents and a further sum of Rs. 3,300,000 by the issue of Treasury bills in the Colony for the purpose of making loans to sugar factory owners and sugar cane planters in order to assist the sugar industry of the Colony.

Ordinance No. 13 repeals the provision of Ordinance No. 6 under which the amount was authorized to be borrowed from the Crown Agents, and authorizes the Crown Agents acting on behalf of the Colony to raise a loan of £200,000 in London.

Ordinance No. 14 authorizes the raising of a loan of Rs. 3,300,000 in the Colony, refundable in thirty years, to provide funds for the repayment of the Treasury bills issued under the provisions of Ordinance No. 6.

The Sugar Special Export Duty (Consolidated) Ordinance, No. 15, amends and consolidates the special export duties leviable on sugar under Ordinances Nos. 15 of 1926, 13 and 14 of 1929. The Ordinance, together with Ordinances Nos. 1, 6, 13 and 14, are a series of special legislation passed during the year to assist the sugar industry of the Colony.

Municipality Pensions.—Ordinance No. 3 legalizes the practice of conferring on municipal officers and servants the same privileges in respect of pensions and gratuities as are enjoyed by civil servants of the Colony.

Deceased Municipal Officers and Servants Salary.—Ordinance No. 4 authorizes the payment of a gratuity to the heirs of deceased municipal officers and servants on the lines of the Deceased Public Officers Salary Ordinance, 1925, which is applicable to the heirs of deceased public officers of the Colony.

Naturalization (Deprivation).—Ordinance No. 5 authorizes the revocation of certificates of naturalization issued under Ordinances Nos. 26 of 1871 and 21 of 1872, and provides for the loss of naturalization in regard to the wife and children of any person whose certificate is so revoked.

Medicinal Tinctures and Drugs.—Ordinance No. 7, which was introduced as a result of fraudulent sale of certain alcoolats, as rum, raises the excise duty on alcohol delivered for the preparation of alcoolats and certain specified tinctures or drugs. The Ordinance also extends the power of the Governor in Executive Council to make regulations under the main Ordinance for the better protection of the revenue.

Mauritius Sugar Syndicate.—Ordinance No. 9 incorporates a syndicate which is the medium through which sales of sugar belonging to its members are made.

Customs Tariff.—Ordinance No. 24 amends and consolidates the Customs Tariff of 1908 and its numerous amendments from 1908 onwards.

Maintenance Orders (Facilities for Enforcement).—Ordinance No. 27 facilitates the procedure for the enforcement within reciprocating British possessions or territories under His Majesty's protection of maintenance orders made by courts in Mauritius. The effect of the new provisions is mainly to dispense with the necessity of transmitting copies of orders through the Secretary of State.

6. STATE OF NORTH BORNEO.

[*Contributed by* J. MAXWELL HALL, ESQ., *Legal Adviser.*]

Two Ordinances were brought into force during the year.

Prevention of Crimes.—Ordinance No. 1 throws the onus of accounting for possession of stolen property on a person charged under the Ordinance with the offence of having stolen property in his possession, and strengthens the hands of the police in their endeavours to prevent the committal of further crimes by known and bad characters.

Labour.—Ordinance No. 2 consolidates the various amendments made from time to time in the Labour Law and introduces changes recommended by the Labour Advisory Board.

7. SEYCHELLES.

[*Contributed by* G. E. COOPER, ESQ., *Legal Adviser.*]

Ordinances passed—10.

Registration of Designs.—No. 1 provides that designs registered in the United Kingdom may be registered in Seychelles on production of a certificate of registration in the United Kingdom and payment of a small fee.

Nursing and Midwifery.—No. 2 provides that a training school for nurses shall be established at the New Hospital, and gives the Governor power to issue diplomas in medical and surgical nursing and midwifery to those qualifying after a prescribed course.

It also consolidates the law relating to midwifery.

Turtles.—No. 5 amends the law relating to turtles (No. 5 of 1925). It provides further protection to turtles to prevent them being killed as they approach the beach to lay their eggs. It also regulates the trade in tortoise-shell.

Motor Vehicles.—No. 6 introduces a code for motor vehicles to meet modern conditions. Ordinance No. 16 of 1913 was passed when there was only one motor vehicle in the Colony and proved insufficient now that there are nearly 150 concentrated in a small area.

The new Ordinance is based on British and Mauritian legislation.

There is no speed limit, but severe penalties for dangerous driving. There are also provisions as to registration of vehicles, licensing of drivers, etc.

A point to be noted is that on a second conviction for dangerous driving the court may prohibit the vehicle in question from being used for three months.

Fisheries.—No. 7 consolidates and amends the law relating to fisheries in Seychelles. The amendments are chiefly intended to prevent the destruction by netting of immature fish in the breeding grounds on the reefs surrounding the islands.

In its first year this Ordinance was remarkably successful and the supply of fish has increased.

Importation of Animals.—No. 9 consolidates the law relating to the importation of members of the canine and feline species.

It gives power to quarantine such animals, and also gives power to the Governor to deal by means of regulations with an outbreak of rabies, which is unknown in the Colony.

IX. WEST AFRICA.

1. GAMBIA.

[*Contributed by* A. G. B. Manson, Esq.]

Ordinances passed—19.

Costs in Crown Suits.—The Supreme Court (Amendment) Ordinance (No. 5) allows costs in all suits to which the Government is a party to be awarded in the same manner as in suits between private parties.

Criminal and Civil Appeals.—The Supreme Court Appeals Ordinance (No. 9) deals with civil and criminal appeals from the Supreme Court to the newly established Court of Appeal for West Africa.

In civil cases (s. 3) an appeal lies from (*a*) all final judgments and decisions of the Supreme Court given in respect of a claim exceeding the sum of £50; or determining, directly or indirectly, a claim or question respecting money, goods or other property, or any civil right or other matter above the amount or value of £50; and (*b*) all interlocutory orders and decisions made in the course of any suit or matter by leave of the judge making the order, but not otherwise. Provided always that no appeal shall lie, except by leave of the court making the order, (i) from an order as to costs only, or (ii) from an order made by the consent of the parties.

Power is given to the judge to reserve questions of law for the opinion of the Court of Appeal (s. 4).

The provisions governing criminal appeals have been amended by a further Ordinance passed in 1930, and the right of criminal appeal and other matters incident thereto are modelled on the English Criminal Appeal Act, 1907, most of the provisions of the latter being adopted in their entirety. In addition, the Supreme Court Appeals Ordinance, 1929, provides for appeals by barristers or solicitors against orders of the judge suspending them from practice or striking them off the roll.

Motor Traffic.—Ordinance No. 8 deals with drunkenness of drivers of motor vehicles and provides (s. 3) that any person who whilst drunk, or whilst his efficiency as a driver is impaired by drink, drives or is in charge of a motor vehicle on any highway shall on summary conviction before a magistrate be liable in the case of a first offence to a fine not exceeding £50 or to imprisonment for a term not exceeding six months, and in the case of a second or subsequent offence to imprisonment for a term not exceeding six months. S. 4 prohibits the grant of a driving licence to any person under 18.

The remaining Ordinances deal with various matters which hardly require special comment.

2. GOLD COAST.

[*Contributed by* S. S. Abrahams, Esq., *Attorney-General.*]

During the year thirty-eight Ordinances were passed, of which the most important were the following:

European Officers' Pensions.—Ordinance No. 2 improves the pension conditions of those officers whose service has been performed partly in the Colony and partly in other dependencies.

Police Force.—Ordinance No. 6 was enacted consequent upon the

disbandment of the Northern Territories Constabulary and the establishment of a police force in that Protectorate. The Ordinance makes it clear that, though the Gold Coast Colony, Ashanti, the Northern Territories and the British Sphere of Togoland has each its own legally established police force, these police forces are for practical purposes one force, as they are constituted by the same personnel and every officer and constable is required by law to serve in any of the above-named dependencies.

Cattle Guards.—Ordinance No. 13 makes provision for the appointment of cattle guards to assist the veterinary authorities in carrying out the provisions of the Diseases of Animals Ordinance. The guards appointed do not comprise an actual force, but the Governor may prescribe a distinctive uniform or badge for them, they have powers of summary arrest and may execute process in respect of offences against the Diseases of Animals Ordinance.

Public Lands.—Ordinance No. 17 shortens the procedure in respect to the acquisition by government of lands for public purposes by excluding from claiming compensation all persons who do not submit their claims within three months of the notice of intention to acquire.

Extension of Jurisdiction (Police Magistrates and District Commissioners).—Ordinance No. 24 extends the civil jurisdiction of police magistrates to cases involving a sum of £300, and that of district commissioners to cases involving a sum of £100.

West African Court of Appeal.—Ordinance No. 28 makes provision for the hearing of appeals from the Supreme Court of the Colony by the West African Court of Appeal which was constituted by the West African Court of Appeal Order in Council, 1928. In civil matters the features and conditions of appeal are practically the same as those hitherto prevailing in respect of appeals to the Full Court of the Supreme Court of the Colony. In criminal matters, however, an important innovation has been introduced. The Ordinance follows the English Criminal Appeal Act in respect of grounds of appeal, conditions of appeal and powers of the court in determining the appeal. Hitherto appeals have lain to the Full Court only by way of case stated on a point of law.

Supreme Court.—Ordinance No. 29 is a necessary corollary to the West African Court of Appeal Ordinance. It restricts the jurisdiction of the Full Court of the Supreme Court to disciplinary action over legal practitioners and to any other matters which may be referred to it by law.

Customs.—Ordinance No. 35 remedies two defects in the principal Ordinance. It punishes gang smuggling by a provision which is practically identical with s. 10 of the English Customs and Inland Revenue Act, and it punishes shooting at Customs vessels and attacks on Customs officers by a provision which is practically identical with s. 193 of the English Customs Consolidation Act.

Forests.—Ordinance No. 38 facilitates the task of the Reserve Settlement Commissioner appointed to inquire and adjudicate upon claims to rights in respect to any area of land constituted a forest reserve. It enables him to divide the land into as many portions as he thinks fit and to adjudicate upon the claims relating to each separate portion. The Ordinance also constitutes the Reserve Settlement Commissioner a court for the above-mentioned purposes, declares the court so formed to be part of the Supreme Court and prescribes that appeals from decisions of the court shall lie to the West African Court of Appeal.

(i) ASHANTI.

Twenty-one Ordinances were passed, of which the most important were the following:

Boundary Land Tribute and Fishery Disputes (Executive Decisions Validation).—Ordinance No. 7 invests with full and definitive legal force and effect any executive decision given, confirmed or approved by the Chief Commissioner of Ashanti prior to the commencement of the Ordinance in any dispute or matter relating to boundary land tribute or fishery rights if such decision is contained in any volume certified by the Chief Commissioner to be a " Boundary Book " for the purposes of the Ordinance.

Children (Care and Reformation).—Ordinance No. 13 enables the presiding officer of any court to issue a mandate for the detention and care in a reformatory of any child not over fifteen who has been convicted by him or is shown to be an orphan, or to have been deserted or neglected or otherwise ill-treated by the person in charge of the child. The mandate requires confirmation by the Governor, who may order the child to be detained in Ashanti or in the Gold Coast Colony. The Ordinance follows closely the Colony Ordinance of the same title (No. 22 of 1928).

Commissioners.—Ordinance No. 16 extends the civil jurisdiction of district commissioners to cases involving the sum of £100.

West African Court of Appeal.—Ordinance No. 17 makes provision for appeals in civil and criminal matters to the West African Court of Appeal from the Chief Commissioner's Court. The Ordinance is practically identical in form with the corresponding Gold Coast Colony Ordinance of the same title (No. 28 of 1929). It introduces an innovation of fundamental importance in that hitherto appeals in criminal matters have been definitely excluded by law, and appeals in civil matters lay to the Full Court of the Supreme Court of the Colony but only by leave of the Governor.

(ii) NORTHERN TERRITORIES.

Fifteen Ordinances were passed, the most important of which were as follows:

Cattle Guards.—Ordinance No. 1 is identical in form and purpose with the Gold Coast Colony Ordinance of the same title (No. 13 of 1929), though, in fact, it was enacted a few months earlier.

Births, Deaths and Burials.—Ordinance No. 10 makes provision for the compulsory registration of births and deaths in any area to which the Governor may apply the Ordinance. Provision is made for the appointment of Registry Offices and of Registrars and Assistant Registrars. The Principal Registrar of Births, Deaths and Burials for the Gold Coast Colony is appointed to the corresponding post in the Northern Territories.

West African Court of Appeal.—Ordinance No. 14 makes provision for the hearing of appeals from the Chief Commissioner's Court. This Ordinance is identical in form with the corresponding Gold Coast Colony Ordinance of the same title (No. 28 of 1929). It introduces an innovation of fundamental importance in that hitherto appeals in criminal matters have been definitely excluded by law, and appeals in civil matters lay to the Full Court of the Supreme Court of the Colony, but only by leave of the Governor.

(iii) BRITISH SPHERE OF TOGOLAND.

Administration.—One Ordinance only was passed, the Administration Amendment Ordinance No. 1, which provides that appeals from native tribunals in cases relating to land in the Southern Section shall lie to the District Commissioner's Court when formed by the Provincial Commissioner or Deputy Provincial Commissioner of the Eastern Province of the Gold Coast Colony.

3. NIGERIA.

[*Contributed by* J. C. HOWARD, ESQ., *Solicitor-General.*]

Ordinances passed—28.

Labour.—Ordinance No. 1 combines in one code all the pre-existing provisions regarding the employment of labour in Nigeria, and the recruitment in Nigeria of labour for service elsewhere, and at the same time embodies such amendments as appeared desirable after consideration of similar legislation in force in other colonies and present-day conditions, more especially those existing in the Cameroons plantations.

Liquor.—Ordinance No. 3 provides for the exemption of approved civilian messes and naval canteens from the provisions of the Ordinance in the same way as military messes are exempt.

Ordinance No. 9 makes provision for rendering smuggling of liquor into prohibited areas increasingly difficult by extending to other forms of transport the same provisions as apply to vessels and trains.

Companies.—Ordinance No. 20 incorporates some of the more important changes effected by the Companies Act, 1928, regarding the issue of prospectuses and statements in lieu of prospectuses, the issue of shares, the hawking of shares and the issue of prospectuses by foreign companies inviting subscriptions for shares or offering shares for sale.

Legitimacy.—Ordinance No. 27 provides for the legitimation of children born out of wedlock of parents who subsequently marry. The Ordinance follows the Legitimacy Act, 1926.

4. SIERRA LEONE.

[*Contributed by* I. J. TURBETT, ESQ., *Acting Attorney-General.*]

During the year under review thirty Ordinances were passed by the Legislature. Of these twenty-five either amended or repealed existing measures, two dealt with supply and the three remaining Ordinances relate to matters which had not previously formed the subject of legislation. The most important of these Ordinances were :

Freetown Municipality Officers' Superannuation.—Ordinance No. 8 provides for the payment of superannuation allowances and gratuities to officers in the permanent service of the City Council of Freetown. The Ordinance is based on the Local Government and Other Officers Superannuation Act, 1922 (12 & 13 George V, c. 59), and presents no unusual features.

West African Court of Appeal (Criminal Cases).—Ordinance No. 10 confers on persons convicted before the Supreme Court or the Circuit Court the same right of appeal to the West African Court of Appeal as persons convicted on indictment in England have to the Court of Criminal Appeal established by the Court of Criminal Appeal Act, 1907.

West African Court of Appeal (Civil Cases).—Ordinance No. 9 provides for the creation of a court to hear appeals in civil cases from the Supreme Court and the Circuit Court, in accordance with the provisions of the West African Court of Appeal Order in Council, 1928. The Ordinance abolishes the old Full Court which had previously determined appeals in civil cases. The Ordinance is slightly amended by the West African Court of Appeal (Civil Cases) (Amendment) Ordinance (No. 29 of 1929), which *inter alia* confers on the court a discretionary power to entertain any appeal.

Public Transport Services.—The main object of Ordinance No. 13 is to enable the general manager of the railway to sue and be sued in respect of breaches of contract occurring in connexion with the business of the public transport services.

Coroners.—Ordinance No. 14 makes several important alterations in the existing law relating to the circumstances under which inquests must be held. The principal Ordinance provides for the holding of an inquest or of an inquiry by a coroner without a jury in certain parts of the Colony. In order to diminish the demands made upon persons qualified to serve as jurors, s. 4 of this Ordinance provides that the coroner is to hold an inquiry, no matter what the locality, in all except three specified cases: (*a*) death caused by an accident arising out of the use of a vehicle in a street or public highway; (*b*) death occurring in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public; (*c*) that it is for any reason desirable that there should be an inquest rather than an inquiry.

Inquests must still also be held, however, into the death of a prisoner or lunatic in a prison or lunatic asylum and also on the execution of a person convicted of a capital charge. Local legislation in this respect is therefore substantially the same as that now in force in England owing to the change wrought in the law by the Coroners (Amendment) Act, 1926, except that locally an inquiry and not an inquest will be held by a coroner in cases where the deceased came by his death by murder, manslaughter or infanticide. The provisions of s. 14 (1) of the Coroners (Amendment) Act, 1926, with regard to viewing the body, have also been incorporated in the Ordinance.

Forestry.—Ordinance No. 16 allows clearances to be made in forest reserves and restricted areas for the purposes of mining and prospecting, the making and widening of roads, surveying and obtaining supplies of water.

Births and Deaths Registration.—Ordinance No. 28 provides for the transfer of the duties of the Registrar-General of Births and Deaths to the Deputy Director of the Health Service. Thus all information in regard to births and deaths will be collected by the Department to whom such statistics are most valuable. The periods allowed hitherto for the registration of births and deaths have been considerably curtailed. The Ordinance also authorizes a certain measure of compulsory registration in the Protectorate by providing for the creation of districts in which the births and deaths of non-natives must be registered. Government may further, on the request of a Paramount Chief, require the registration of all births and deaths in any Health Districts created under Ordinance No. 26 of 1926.

S. 20 of the Ordinance provides also for permissive registration of births and deaths of natives occurring in any registration or health districts of the Protectorate. The fees payable for registration under the

principal Ordinance have been abolished as far as the Protectorate is concerned.

Special provisions of the principal Ordinance applicable formerly to Freetown only have been extended to other parts of the Colony.

Education.—Ordinance No. 30 repeals and replaces the Education Ordinance, 1924, and gives the local government a greater measure of control over education than was hitherto the case. The Ordinance follows and amplifies the scheme of the repealed Ordinance to a certain considerable extent but makes the following important changes: (*a*) By s. 4 (2) two sub-committees of the Board of Education are set up, one for the Colony and one for the Protectorate; (*b*) the rule making power is increased and vested in the Governor in Council instead of the Board itself, although the latter body submits recommendations; (*c*) s. 11 provides for the general management of assisted public primary and public secondary schools by representative committees; (*d*) s. 14 sets up a register of teachers and provides that registered teachers only shall teach in government and assisted public primary schools; (*e*) provision is also made to compel managers of non-assisted schools to notify their existence to the Director of Education and to require any person proposing to establish a new school to furnish a similar notification and all essential particulars.

Under the Education rules which have been embodied in Schedules to the Ordinance, special attention may be directed to the following: Rule 36 standardizes tuition fees in assisted public primary schools; Rule 40 secures uniformity in regard to all school holidays; Rule 71 provides for the payment of teachers' salaries wholly from government funds in public primary schools where the tuition fees are paid to general revenue. Grants in aid are also payable to European teachers in public primary schools under European supervision.

One hundred minor subordinate legislative measures were enacted during the year.

X. EAST AFRICA.

1. KENYA.

[It is hoped to publish this Summary in the next *Review*.]

2. NYASALAND PROTECTORATE.

[*Contributed by* W. HARRAGIN, ESQ., *Attorney-General*.]

During the year twenty-seven Ordinances were passed, of which the following are the most important.

Sanitary Boards.—Ordinance No. 1 provides for the appointment of sanitary boards in areas which show definite signs of development. These boards have powers which approximate to those of town councils.

It has been found that irreparable harm has been caused by permitting villages and areas to open up and extend without some controlling authority, as upon reaching that stage where they are capable of being declared townships, many undesirable features have already been evolved, which are incapable of eradication by by-laws and rules of the town council.

It is believed that the creation of boards to deal with townships in

their early stages will assist town councils considerably when the time arrives for them to assume control.

Penal Code and the Criminal Procedure Code.—These two Ordinances (Nos. 22 and 23), which have been long under consideration, have been introduced, with small local variations, into all the Colonies and Protectorates of Eastern Africa.

It has always been unsatisfactory and beyond the understanding of most natives that by crossing an imaginary line into another colony under the same flag they were subject to different laws and varying procedure.

These model Ordinances based on English law represent the first attempt to produce uniformity in the criminal law among neighbouring territories in Eastern Africa.

Asiatics (Marriage, Divorce and Succession).—Ordinance No. 13, as its name suggests, provides for the marriage, divorce and succession of Asiatics living in this Protectorate. The law relating to Christian and native marriages has not unnaturally been found unsuitable to Asiatics, and this Ordinance, as far as local conditions permit, approximates to the laws in existence in their own country.

The other amending Ordinances passed during the year are of purely local interest and are unworthy of general comment.

3. TANGANYIKA TERRITORY.

[*Contributed by* H. Ralph Hone, Esq., M.C., LL.B., *Crown Counsel.*]

Ordinances passed—25.

Preservation of Archæological Objects.—No. 1 gives power to declare any areas "reserved areas" if such areas are believed to contain objects of archæological or palæontological interest. Within reserved areas the Governor is enabled to observe a measure of control over and to license operations which may or are intended to unearth or disturb remains of archæological or palæontological interest. The immediate necessity for this legislation arose on the occasion of a visit of an expedition from the British Museum to explore for fossil remains in the neighbourhood of Tendaguru in Southern Tanganyika, when it was decided that general powers were necessary in the Territory to protect and preserve fossil and other remains from careless destruction, and to limit the right to handle and extract them to competent and approved persons. The legislation follows very closely similar enactments in Kenya and Zanzibar.

Native Courts.—The enactment of this Ordinance (No. 5) marks a great stride forward in the development to its logical conclusion of the system of Native Administration, familiarly known as "indirect rule," inaugurated and pursued by Sir Donald Cameron during his governorship of the Territory. It is not to be inferred that this Ordinance inaugurated native courts in any sense, for native courts have always existed as a tribal institution in most areas, and indeed received some legislative sanction by the Courts Ordinance of 1920, wherein native courts gazetted as such were fitted into the general system of subordinate courts and were subject to the control and direction of the High Court. Ordinance No. 5, however, makes a radical change in the source of authority, status, constitution, rules of procedure, right of appeal and method of supervision of native courts, and the reason for the change is to be found in the fact that the

system of indirect rule involves the preservation as far as possible of the traditions of native institutions, and to these traditions any separation of executive and judicial functions such as the Courts Ordinance, 1920, recognized as fundamentally foreign. The Ordinance aims therefore at legalizing the establishment and control of native courts as an integral part of the administration of the Territory, guided and controlled by the district officers, provincial commissioners and ultimately by the Governor as head of the administration. Accordingly native courts are set up by warrants from the provincial commissioners with the Governor's approval, and are supervised and controlled by the district officers as executive officers of native administration, to whom an appeal lies in every case, with final appeal to the Governor. The degree of jurisdiction to be conferred on native courts is not fixed, but can be adjusted to its capacity in each case and can be varied from time to time. The High Court has no jurisdiction of any kind over such courts, but instead, wide revisional powers are given to district officers, as well as power, at any stage of the proceedings, to transfer a case from a native court to the subordinate court of a magistrate, if it appears to be an unsuitable case for a native court to try.

Destruction of Locusts.—Ordinance No. 6 gives power to the Governor in Council to make regulations for various purposes in furtherance of the campaign against invasion by locust swarms. It permits the Governor in Council by regulation to empower specified government officials to require occupiers of land to do and assist in such acts as are deemed necessary for the destruction of locusts and locust eggs, and to authorize such officers in default of compliance with their requirements to enter land and there carry out whatever work is desirable with government labour and to recover any cost from the occupier. Specified officers may also be empowered to take possession of cattle, machinery, implements and vehicles which they may require in the campaign against locusts. The regulations when made apply only to such areas within which the Governor in Council may declare that a state of danger to agricultural crops by locusts exists.

Produce Export.—Ordinance No. 7 enables such control to be exercised over the export of produce that the quality and reputation of the exports of the Territory may be improved and maintained. Its operation is confined to such articles derived from farming operations or stock keeping as the Governor in Council shall specify from time to time. There is provision for the inspection of all produce so specified prior to export, for the special treatment of all such produce intended for human consumption and for the inspection and approval of all places where animals are slaughtered, or dairy produce is prepared, for export. Wide powers are given to the Governor in Council to make rules for the purposes of the Bill, and, in particular, to maintain the purity of produce exported for human consumption and to provide for the grading and marking of any produce exported. The powers which may be exercised by inspectors to carry out the objects of the Ordinance are subject to an appeal to a Board set up by the Ordinance.

Divorce.—Until the passing of Ordinance No. 8 (which in accordance with the terms of the Royal Instructions to the Governor was reserved for His Majesty's assent before it was enacted) the Court of Tanganyika had not full jurisdiction in divorce. The Native Christians (Divorce) Ordinance, 1923, covered native cases, but, as regards non-natives, the

only jurisdiction was in respect of Asiatics. The Indian Divorce Act, 1869, had been applied in 1920 to the Territory, but in so doing the legislature expressly excepted so much of that Act as relates to divorce and nullity of marriage. Accordingly it was felt that all non-natives domiciled in the Territory should be able to obtain proper and adequate relief in such matters from the courts of the country of their domicile, and the Ordinance effects this and at the same time consolidates the law: in the result, by virtue of the Ordinance, the High Court of Tanganyika now has the same complete jurisdiction in divorce as that possessed by the Supreme Court of Kenya.

Religious and Charitable Societies (Disposal of Land).—No. 14 is a very short Ordinance applying only to land held by any religious and charitable society under any grant or title given after August 2, 1929, by or on behalf of the Crown and enacts that no transfer of any freehold or leasehold interest in such land shall be of any effect unless the same shall be disposed of by public auction and in accordance with rules which may regulate the holding of such auctions and require certain preliminary advertising of the intended sale. This legislation was passed because it was felt that where the Government grants land to a religious or similar society for purposes which are in effect public purposes, and subsequently the society decides to sell such land, it should not be disposed of to other parties for possible secular uses except publicly by auction.

Mining.—No. 15 repeals and replaces the Ordinance of 1920 as amended in 1927 and is uniform with similar legislation passed recently in Uganda and Kenya. The necessity for improved and consolidated legislation relating to mining arose principally from the fact that suitable provision was required for the regulation of mining on a large scale by companies which was rapidly supplanting small scale mining by individuals in the Territory. The Ordinance gives the Government power to license and restrict prospecting for minerals (which expression in the Ordinance does not include mineral oils) throughout the Territory and to prohibit it in certain areas. The laws relating to the pegging and registration of claims and mining leases are dealt with in the Ordinance, and Part IV deals in particular with the grant of water rights for mining and prospecting purposes. In addition, the Ordinance sets up a department of mines and invests the Commissioner of Mines with authority to hear and decide disputes in connexion with mining and prospecting, to inspect mines and to inquire into mining accidents. Part VI of the Ordinance regulates the purchase and possession of certain minerals. Finally, extensive powers are conferred by the Ordinance on the Governor in Council to make regulations for many matters connected with prospecting and mining.

Ports (Public Services).—No. 16—a measure which was also reserved for His Majesty's assent—is designed to affirm by legislation the fact that the service of the ports of the Territory is an essential public service within the meaning of Art. 7 of the Mandate, which provides that the Mandatory shall be free to organize such services on such terms and conditions as it considers just.

In accordance with that principle, the Ordinance vests in the Government full control of all services performed in connexion with the handling and lightering of cargo in any port to which the law may be applied. So far as such services may continue to be performed by private enterprise, they are performed under licence and subject to such rules as may be made. It is, however, within the power of the Governor, if in his opinion

the public interest so requires, to order that in any particular port no licences shall be issued and that the service of the port shall be undertaken directly by the Government itself. If, in consequence of any action which may be taken under the Ordinance, any person who has maintained a public service in any port before the commencement of the law and is prevented from continuing it, may, subject to certain conditions and limits of time, require the Government to purchase from him the tugs, launches and lighters which he has used in the performance of that service. All rights which arise under the International Convention of 1921, relating to Belgian traffic in transit through the Territory to and from the Belgian Congo, are preserved.

Trout Protection.—For some considerable time before the enactment of this Ordinance (No. 18), private enterprise, particularly in the Northern Province of the Territory, had been active in rearing trout and stocking suitable streams: in consequence it became necessary to pass legislation to regulate trout fishing and the sale of fresh trout by licence, and to give powers to declare close seasons and to reserve the rights of trout fishing under certain circumstances to individuals or to approved fishing clubs. The Ordinance includes a number of penal clauses and permits the appointment of honorary trout wardens to assist in carrying out the provisions of the Ordinance.

Game Preservation.—No. 19 provides for more severe penalties in the case of certain offences against the game laws, regulates the photographing of game, and gives power to close certain areas wherein hunting and photographing of game will not be allowed except by special permit. The amendment was introduced consequent upon the disclosure in the press of the conduct of some hunting parties which appeared to call for penal action, but which the existing law did not seem to cover.

Census.—No. 24 provides for the taking of a census of the non-native population of the Territory on a day in 1930 to be appointed. Non-native is defined as a person " not by birth or adoption a member of any of the aboriginal races or tribes of Africa or a Somali or Swahili " and the general provisions of the Ordinance follow the usual familiar lines for such laws.

4. UGANDA PROTECTORATE.

Ordinances passed—16.

Masters and Servants.—By No. 1 an employer and servant may enter into a special contract for a definite number of days' work in a period not exceeding one year.

Non-Native Poll Tax.—By No. 2 the Governor may, by notice in the *Gazette*, appoint any person to collect non-native poll tax, and such person shall have the powers of a District Commissioner.

Industrial Alcohol.—No. 4 makes provision for the manufacture, sale and use of industrial alcohol, for the distillation and certification of which licences are required.

Maintenance Orders.—No. 14 amends the principal Ordinance and provides that when the Governor is satisfied that reciprocal provisions have been made by any British possession or protectorate for the enforcement of orders made by the courts in Uganda, the Governor may by proclamation extend the law thereto.

5. ZANZIBAR.

[*Contributed by* A. N. Doorly, Esq., *Attorney-General.*]

Nineteen Decrees were enacted in 1929, of which the most important were the following:

Towns.—No. 2 is a compendious law providing for the declaration of towns, the rating of premises in towns, the regulation of streets, buildings, advertisements, drainage, lighting, water supply, protection from fire in towns and for the appropriation of public lands in towns as public open spaces and for their regulation.

Public Health.—This (No. 3) is a consolidating law, though at the same time adding new features and introducing more up-to-date provisions in regard to public health. Provision is made in respect of nuisances, the prevention and suppression of infectious diseases, vaccination, the prevention and destruction of mosquitoes, cemeteries, dairies, the sale of milk and the protection of food.

Peace Preservation.—No. 8 gives to the British Resident power to disarm persons (not being government officers or specially excepted in proclaimed districts, and to make rules in emergencies regulating, prohibiting or restricting the entry or movements of persons and the holding of public meetings in proclaimed areas.

Agricultural Produce Export Decree.—No. 11 provides for the inspection and grading of agricultural produce intended to be exported from the Protectorate.

European Officers' Pensions.—Nos. 13 and 16 amend the law on this subject, the former by extending the provisions of the principal Decree to officers who become Governors, the latter by granting to the Government the right to require an officer who was appointed to the East African Service before the commencement of the Decree to retire on pension on attaining the age of 50 years or on completion of 20 years' East African Service, whichever is earlier.

6. ANGLO-EGYPTIAN SUDAN.

[*Contributed by the* Hon. the Advocate-General.]

Ordinances passed—7.

Apart from legislation dealing with the amendment of the existing legislation, the most important enactments have been the Sudan Defence Force Medical Officers' Pension Ordinance, the Employment of Children Ordinance, the Sudan Defence Force (Other Ranks) Pension Ordinance and the Traders' Licence and Taxation of Business Profits Ordinance, 1929. The Ordinances are as follows:

Sudan Defence Force Medical Officers' Pension.—Ordinance No. 2 authorizes and regulates the payment of pensions and gratuities to Medical Officers of the Sudan Defence Force.

Employment of Children.—Ordinance No. 3 controls and regulates the employment of children in factories and workshops. In this Ordinance a child means any person under the age of 15. It provides that no child shall be employed in any factory or workshop unless he has attained the age of 12, and is medically fit for work in such place; that no child between the age of 12 and 15 shall be so employed unless such employment has been authorized by the Central Sanitary Board with the approval of the Governor-General, and such employment is subject to restriction as

to hours of work and provision of safety precautions. The inspection of such factories and workshops and compulsory notification of accidents are also provided for.

Sudan Defence Force (Other Ranks) Pension. — Ordinance No. 5 authorizes and regulates the payment of pensions and gratuities to non-commissioned officers and men of the Sudan Defence Force.

Traders' Licence and Taxation of Business Profits.—Ordinance No. 7 provides for the licensing and for taxing the profits of business in the Sudan. This Ordinance rectifies a number of anomalies which were found by experience to exist in the Traders' Licence and Taxation of Business Profits Ordinance, 1926, the most important of which were those affecting foreign traders. Before the latter Ordinance it was possible for foreign traders operating through agents or branches in the Sudan to evade the tax. The 1926 Ordinance was designed to prevent this evasion and to extend the scope of the tax to include all persons trading in the Sudan, whether resident or not. Experience indicated that the 1926 Ordinance went too far. The 1929 Ordinance has been drafted to remedy this state of affairs and to ensure simplicity of administration.

Prison Regulations.—In addition to these Ordinances, new Prison Regulations were promulgated. These Regulations provide for the ordering of prisons throughout the Sudan. The prisons are divided into Central Prisons, Province Prisons and Local Prisons. The Regulations cover the duties of the prison staff and medical officers and provide rules relating to hygiene, treatment of convicted prisoners, wearing of irons and chains, visits and communication with prisoners, employment of prisoners, remuneration of convicted prisoners, release by remission of sentence, conditional release, treatment of female prisoners, offences by prisoners and escapes, condemned prisoners, classification of prisoners and their respective treatment, juvenile prisoners, stores, etc.

Criminal Law and Procedure.—The second part of the new Legal Regulations to which reference was made in last year's report relating to Criminal Law and Procedure has been issued also. These Regulations have no legislative authority, but contain certain instructions which are supplementary to and explanatory of legislative enactments with which it is important that officials concerned with the administration of the law should be familiar.

XI. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by the* HON. BERNARD F. KING, *Acting Attorney-General.*]

There were forty-eight public Ordinances and one private Ordinance passed during the year. The principal of these were :

Summary Conviction Offences.—No. 2 relates to the suppression of the circulation of and traffic in obscene publications. An International Convention for the suppression of the circulation of and traffic in obscene publications was signed at Geneva on September 12, 1923. His Majesty was party to this Convention, but the signature thereto on behalf of the British Empire did not include any of the colonies, overseas possessions, protectorates or territories under His Majesty's sovereignty or authority. It being considered desirable that this Colony should adhere to the con-

vention, with this end in view, statutory effect is given to Arts. 1 and 5 thereof, whereby it is agreed by the parties thereto that certain acts shall be punishable offences and provision made for searching for, seizing, detaining and destroying obscene matters or things.

Registration of United Kingdom Trade Marks and Designs.—Ordinances Nos. 3 and 4 provide respectively for the registration in the Colony of trade marks and designs registered in the United Kingdom.

Legal Practitioners' Regulation.—Ordinance No. 10 makes provision with respect to the discipline of legal practitioners. The importance of the Ordinance lies in the provision of proper machinery for examining into charges of misconduct by a committee of professional men of which the Attorney-General is chairman. Where the committee is of opinion that a *prima facie* case of misconduct is proved, a report setting out their conclusions is made to the judges of the Supreme Court. At a sitting of the court the report is considered and such order is made as justice requires. The jurisdiction of the court to deal with cases of professional misconduct has always existed, but hitherto there has not been any recognized procedure for investigating such cases. The expression " legal practitioner " in s. 2 is employed because barristers-at-law are permitted to practise in this Colony in the same way as solicitors, and it is necessary that they should be subject to the same discipline as are solicitors elsewhere. The Ordinance is an adaptation to local conditions of a method which has proved successful in other Colonies.

Public Purposes Loan.—No. 11 authorizes the raising of a loan of £3,103,500 for certain public purposes, which loan has been raised under " The General Loan and Inscribed Stock Ordinance, 1913."

Public Loan.—No. 12 provides that no further loans shall be raised under the Public Loan Ordinance, 1916. In consequence of the raising of a loan under the Public Purposes Loan Ordinance, 1929, referred to above, it was decided that the borrowing powers under the Public Loan Ordinance, 1916, and the amending Ordinances should be cancelled.

Income-tax.—No. 17 imposes a tax upon income and provides the necessary machinery for the collection thereof. It introduces into the Colony a form of taxation which has been widely adopted throughout the Empire.

Dangerous Drugs.—No. 31 gives effect to the measures decided upon in the International Opium Convention signed at Geneva on February 19, 1925, and regulates the importation, exportation, cultivation, storage, disposal and use of opium, morphine, diacetylmorphine, cocaine, coca leaf, crude cocaine, ecognine, Indian hemp, datura and similar dangerous drugs. The Ordinance repeals the Opium Ordinances, 1916 and 1926, and the local legislation relating to Indian hemp and datura, and embodies in one measure the provisions so repealed.

XII. WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, O.B.E., K.C., *Speaker.*]

Acts passed—23.

Statute Law Revision.—C. 1 authorizes the omission of various Acts from any Revised Edition of the Statute Law of the Colony.

Births and Deaths Registration.—C. 2 codifies and regulates the law, and repeals former Acts relating to the registration of births and deaths. It provides for the appointment of a Registrar-General of Births and Deaths for the Colony and divides the Colony into districts, each district being under the immediate control of a Registrar of Births and Deaths.

Police Force (Military Service).—C. 3 empowers the Governor in Council to make members of the Police Force liable to military service, and provides for the impressment of transport in the event of danger of invasion or other sufficient emergency.

Firearms.—C. 4 requires the possession of a licence in order to have a revolver or gun in one's custody or possession. Provision is made for the marking of revolvers and guns and the registration of licences. Power to search premises is given. The Governor in Council may exempt anyone from the operation of this Act.

Stamps.—C. 11 authorizes the use of impressed stamps on any instrument, the stamp duty on which amounts to or exceeds the sum of sixpence, upon payment to the Treasurer of the amount of the duty.

Penal Code.—C. 13 effects certain amendments of the Penal Code.[1] Ss. 11 and 12 are amended by bringing back into force certain provisions of the Common Law which had been abolished. S. 136 is repealed and a new section substituted making indecent assaults summary as well as indictable offences. Ss. 198 and 199 are amended by preventing foreign ships from sponging and turtling on the local preserves. S. 229 is amended by giving larger powers to put down begging and other public nuisances of a similar nature, in Bay Street, Nassau. S. 264 is amended by re-enacting as a subsection thereto s. 173 of the Magistrates Act, 1896, which was repealed by the Penal Code. S. 269 is amended by increasing the penalty for assaults on Peace Officers. S. 297 is repealed and re-enacted in an extended form.

Taxi-cabs.—C. 14 amends the Taxi-cab Act (1924) [2] by substituting a new definition for "taxi-cab" in s. 2 and adds a new subsection to s. 3 thereof, which provides that a motor-car, other than a taxi-cab, carrying passengers shall be specially licensed at a fee of 10s. per annum. This Act also provides a table of fares for the hire of motor-buses.

Nursing Sisters' Retiring Allowance.—C. 18 provides for the granting and regulating of retiring allowances to nursing sisters and matrons appointed through the Overseas Nursing Association in respect of their services in the Colony.

2. BARBADOS.

[*Contributed by* E. A. COLLYMORE, ESQ., *Attorney-General.*]

Forty-eight Acts were passed in 1929. Of these the most important are the following:

Quarantine.—No. 5 amends the law and regulations with regard to Quarantine in accordance with the recommendations of the West Indian Intercolonial Sanitary Convention, 1928.

Corruption.—No. 27 is the outcome of the recommendations of the International Congress on Bribery and its prevention.

Cotton.—No. 34 amends the Cotton Diseases Prevention Act, 1928,

[1] Now Chapter 60 of Revised Edition.
[2] Now Chapter 123 of Revised Edition.

and provides for a close season for any economic plant which serves as an alternative host for the pink boll worm of cotton.

Emigration.—No. 37 prescribes conditions under which persons may emigrate to proclaimed places and creates a fund for relief of distressed natives in proclaimed places.

Savings Bank.—No. 38 changes the method of dealing with inoperative accounts in the Government Savings Bank and allows interest on deposits in accordance with the practice prevailing in other banks operating locally.

Judicial Establishment.—No. 43 reorganizes the judicial establishment and the constitution of certain of the courts.

Apprenticeship Bursaries.—No. 41 of 1928 establishes a Board of Industrial Training and authorizes the annual award of twelve bursaries to candidates apprenticed to approved master workmen.

3. JAMAICA.

Laws passed—30.

Pensions.—No. 4 enacts that the computation of pensions shall be at the rate of one seven-hundred-and-twentieth for every month of service.

Nationality.—By No. 6 any local naturalized British subject, on becoming naturalized in any foreign state, is deemed to have lost the local status of a British subject in the Colony.

Attorneys.—By the Attorneys Admission Law, No. 7, a solicitor must have been in actual practice for at least five years before taking an articled clerk.

Reformatories and Industrial Schools.—No. 8 gives power to the Governor, if he thinks fit, to order the detention of a child until it attains the age of 18 years.

Sale of the Bark of Trees.—No. 17 makes it an offence liable on conviction to a penalty of £10, or in default of payment three months' imprisonment with hard labour, for any person to sell or offer to sell the bark of mahogany, mahoe or dogwood, unless he can prove the bark was bark taken from a tree growing on property of which he was owner or occupier, or that he was authorized in writing so to do by the owner of the tree from which the bark was taken.

Married Women's Property.—No. 20 provides that a husband is not liable for the torts of his wife, and that a married woman is personally liable on her contracts, whether made before or after marriage, and in respect of torts committed by her, whether before or after marriage, in all respects as if she were a *femme sole.*

Maintenance Orders.—No. 24 amends the principal Ordinance, and provides that when the Governor is satisfied that reciprocal provisions have been made by any British possession or protectorate for the enforcement of orders made by the courts of Jamaica, the Governor in Privy Council may by order extend the law thereto ; such order may be varied or revoked by a subsequent order.

Census.—No. 25 makes provision for the taking from time to time of a census for Jamaica and its dependencies, and for otherwise obtaining statistical information with respect to the population thereof.

Sugar Industry Aid.—No. 26 was enacted to afford temporary assistance to the sugar industry during the crop year 1929–30, and to encourage the export of not less than 80 per cent. of the total production of sugar manufactured by the vacuum pan process, retaining for local sale and

consumption in the Island not more than 20 per cent. of the same during that year. A Sugar Board is established to carry out the provisions of the law. The importation of sugar is prohibited except under a licence from the Board. Importing sugar in contravention of the law is penalized with a fine of £100 or imprisonment with or without hard labour for three months, and such sugar may be forfeited. The Governor may by order fix the maximum retail price, and selling in excess of such maximum is penalized by a fine of £5 or imprisonment for one month. Customs officers may stop any ship or boat which they have reason to suspect has sugar on board, and powers of search and seizure of sugar are conferred upon them.

Motor Omnibuses.—No. 30 provides for the appointment and constitution of a Board of Transport, and for the licensing and control of motor omnibuses and the owners and drivers thereof.

4. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by* H. W. Steele, Esq., *Acting Attorney-General.*]

Ordinances passed—5.

Legitimacy.—Ordinance No. 3 amends the law relating to children born out of wedlock and is modelled on the English Legitimacy Act, 16 & 17 Geo. 5, V. 60.

(ii) Saint Lucia.

[*Contributed by* The Hon. J. E. M. Salmon.]

Ordinances passed—19.

Aliens.—The Aliens Restriction Ordinance, No. 14, prohibits employment of an alien as master, chief officer or chief engineer of a merchant ship registered in the Colony or as skipper or second hand of a fishing boat so registered, with certain exceptions. It is based on imperial legislation.

Emigration.—No. 13 amends the Emigration Ordinance, No. 16 of 1928, as to permits. It repeals the provision requiring photographs and it requires contracts to be in quadruplicate.

Loans.—The Loan Ordinance, No. 3, authorizes the raising of a loan of £3,300 for Castries waterworks reconstruction.

Local Forces.—The Cadet Corps Ordinance, No. 10, provides for the formation of a Cadet Corps of school boys over twelve years of age, for the appointment of officers and for the making of regulations by the Governor in Council.

The Local Forces Ordinance, No. 12, constitutes the Chief of Police the commandant of the local forces and makes provision for the occupation and acquisition of land, or the impressment of property required for defence purposes and for compensation to be paid for such land or property.

Motor-cars.—No. 17 amends the Motor Car Ordinance, No. 104, 1916 Revision, by provisions regulating the hiring of cars and fixing a learner's licence fee.

Public Officers and Pensions.—No. 15 amends the Pensions Ordinance No. 93, 1916 Revision, by providing for the pension of an officer who

becomes a Governor. It further extends the period for notification of election to take a reduced pension and gratuity.

No. 16 amends the Travelling Allowances Ordinance, No. 92, 1916 Revision, as to subsistence allowances, and further enacts that there is no vested right in travelling allowances.

Public Health.—No. 1 gives effect to certain recommendations of the Central Quarantine Authority for the West Indies by amending the Quarantine Ordinance, No. 99, 1916 Revision. It replaces the Convention as amended (first schedule) as well as the Quarantine Regulations as amended (second schedule), which provides measures for dealing with plague, cholera, yellow fever, typhus, small-pox (including alastrim and other anoinatious forms of varioloid disease) and generally for regulating quarantine in the Colony.

Revenue.—No. 5 amends the Customs Ordinance No. 109, 1916 Revision, as amended by No. 13 of 1928, by providing for the appointment of warehouses by the Treasurer without the Governor's sanction.

No. 4 amends the Customs Duties Ordinance, 1921, No. 11, as to import duty on wheaten flour, and some other articles.

No. 9 amends the Export Duties Ordinance, 1926, No. 11, as to the export duty on lime oils.

No. 19, the Jetties Dues Ordinance, empowers the Governor in Council to make regulations providing for the collection of jetties dues.

No. 18, the Trade Licences Ordinance, requires a licence for the sale of wares, merchandise, wines, spirits or goods of any sort, as well as a licence for the sale of tobacco by retail, and provides rates for such licences.

Shipping.—No. 2 amends the Intercolonial Passenger Ships Ordinance, No. 39, 1916 Revision, by substituting "gross" for "registered" tonnage.

The Oil in Navigable Waters Ordinance, No. 8, provides for the discharge or transfer of oil in the waters of the Colony and for inspection of premises and vessels in connexion therewith.

(iii) St. Vincent

[*Contributed by* J. R. Gregg, Esq., *Attorney-General.*]

Aliens Restriction.—Ordinance No. 21 prohibits an alien from acting as a master, chief officer or chief engineer of a merchant ship registered in the Colony. This prohibition does not apply to any alien who has acted as above on a British ship during the War.

Customs Duties.—Ordinance No. 13 amends the First Schedule to the Customs Duties Ordinance (Cap. 184 Rev. Edn.) by increasing the duties on certain articles, namely motor-bicycles, motor-cars, lubricating oil and motor spirit.

Emigrants' Protection.—Ordinance No. 8 amends s. 5 of the Emigrants Protection Ordinance, 1927, to class persons domiciled in the Colony with persons native born.

Maintenance Orders (Facilities for Enforcement).—Ordinance No. 25 is an amendment of the Maintenance Orders (Facilities for Enforcement) Ordinance (Rev. Edn. Cap. 27). It empowers the Governor, if satisfied that reciprocal provisions have been made by the legislature of any British possession for the enforcement of maintenance orders made by the courts in Saint Vincent, to extend the Maintenance Orders (Facilities for Enforcement) Ordinance to such possession by proclamation.

Passenger Boats.—Ordinance No. 10 amends the Passenger Boat

Ordinance (Cap. 201 Rev. Edn.) by inserting a new definition of " passenger boat " and adding a definition of " passenger."

5. TRINIDAD AND TOBAGO.

[*Contributed by* L. H. WHITEHEAD, ESQ.]

Twenty-two Ordinances were passed in 1929, of which the following are of interest :

Patents, Designs and Trade Marks.—Ordinance No. 2 provides facilities for the registration in this Colony of designs registered in the United Kingdom.

Petroleum Office and Conservation Board Establishment.—Ordinance No. 8 provides for the establishment of a branch of the Mines Department to be called the Petroleum Office, the appointment of a Technologist, the levying of a rate on oil producers, and the establishment of a Petroleum Conservation Board to advise the Governor with a view to the conservation of the Colony's oil resources.

Feline Animals (Control).—Ordinance No. 9 gives power to control the importation of cats and other feline animals with a view to prevent the introduction of rabies. Power also is given to deal with outbreaks of disease among feline animals in the Colony.

Payment of Wages on Licensed Premises (Prohibition).—Ordinance No. 13 prohibits the payment of workmen on premises licensed for the sale of intoxicating liquor.

Petroleum (Refund of Duty).—Ordinance No. 16 provides for the refund of excise duty on petrol used in machines employed for tillage.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

Ordinances passed—11.

Marriage.—Ordinance No. 5 amends the law relating to marriages within the prohibited degrees of relationship, and provides that marriage with a deceased brother's widow is not to be void as a civil contract.

Rule of the Road.—By Ordinance No. 7 it is enacted that traffic shall keep to the right side of the road instead of to the left as formerly.

Maintenance Orders.—Ordinance No. 9 amends the principal Ordinance and provides that where the Governor is satisfied that reciprocal provisions have been made by any British possession or protectorate for the enforcement of orders made by the courts of Gibraltar, the Ordinance may be extended thereto by proclamation published in the *Official Gazette*.

Shop Hours.—Ordinance No. 10 repeals s. 4 of the principal Ordinance, No. 5 of 1922, regulating the hours for the opening and closing of shops.

2. CYPRUS.

[*Contributed by* H. H. TRUSTED, ESQ., K.C., *Attorney-General*.]

During the year 1929 thirteen Laws were enacted, of which the most important were the following :

Agricultural Bank.—No. 1 consolidates and amends the Laws relating

to the government guarantee to the Agricultural Bank. It limits the government guarantee relating to profit to the amount of £50,000 and empowers the Governor (*a*) to guarantee the payment of interest on behalf of the Agricultural Bank on a sum not exceeding £200,000 to be raised by the said bank by the issue of bonds, and (*b*) to appropriate from public revenue any sum payable under the guarantees.

Elementary Education.—No. 4 consolidates and amends all the Laws relating to the establishment and management of elementary schools in Cyprus. It is applicable to (*a*) Greek-Christian schools, (*b*) Moslem schools and (*c*) to schools belonging to religious denominations other than Greek-Christian or Moslem. It provides that the members of the Boards of Education, other than ex-officio members, who were previously elected by certain bodies, are to be appointed by the Governor, and the members of the town committees who were previously appointed by the municipalities are to be appointed by the Board of Education. Subject to certain exceptions, it disqualifies certain persons, including the elected members of the Legislative Council, from being appointed to or being members of any Board of Education or town committee. It provides that the powers of the appointment, removal, transfer, dismissal and fixing of the salaries of the teachers, hitherto exercised by the Governor on the recommendation of the Board of Education, shall vest absolutely in the hands of the Governor; but it enacts that teachers shall not be deemed to be public officers in the service of Cyprus. It provides that benevolent grants may be made: (*a*) to the legal personal representative of a teacher who dies while in the service and (*b*) to the female teachers who retire on the ground of marriage before the completion of the prescribed length of service entitling them to a gratuity.

Criminal Evidence and Procedure.—No. 12 amends and consolidates such provisions of the Criminal Law and Procedure Amendment Laws, 1886, and No. 2, 1928, as had not been repealed by the Cyprus Criminal Code Order in Council, 1928. It gives power to the Governor to demand by warrant under his hand the production of telegrams in possession of any person owning or controlling any telegraphic cable or wire or wireless telegraphy apparatus.

3. MALTA.

[*Contributed by* C. J. Colombos, Esq., LL.D.]

As doubts exist as to the validity of the legislation passed in 1929, the review is held over for the present.

XIV. MANDATED TERRITORIES.

1. PALESTINE.

[*Contributed by* Norman Bentwich, Esq., O.B.E., M.C., *Attorney-General.*]

The work of giving Palestine a modern system of law proceeds steadily and indeed rapidly. But it is still incomplete, because small though the country is, it embraces many stages of social and economic development and demands therefore the constant intervention of the legislature. In regard to the Commercial Law, Criminal Law, the Procedure of the Courts and the Revenue and the Land Law large reforms were introduced during the year.

Special legislation was called for by the unfortunate disturbances which broke out in the country in August 1929. Those events emphasized the necessity of strengthening the power of the Government in regard to certain kinds of criminal conduct, and moreover they necessitated the passing of extraordinary legislation to deal with the crisis.

Company Law.—The legislation with regard to limited companies, which was originally enacted in 1921 and had been subsequently amplified by several ordinances, is entirely replaced by a most comprehensive enactment (No. 18) which embodies the principal provisions of the English Company law. That law itself had been amended and amplified by an Act of Parliament of 1928, and the principal provisions of the English legislation are reproduced in the Palestine law of 1929, so that Palestine now possesses a law with regard to limited companies as complete as that of any country under British administration.

Bills of Exchange.—The law with regard to bills of exchange which had hitherto been laid down in the Ottoman Law modelled on the French Commercial Code is restated in an Ordinance (No. 47) that follows closely the Imperial Act of Parliament of 1882. The Ottoman Law of Cheques had been separately defined in legislation of 1912, which followed the International Convention on the Law of Cheques, but in the new Ordinance the law of cheques is combined with that of bills of exchange. The Ordinance follows generally the English law, save that it retains the system, established by long usage in Palestine and in the neighbouring countries, of requiring a protest for inland as well as for foreign bills.

Merchandise Marks. — Another Ordinance (No. 10) designed to strengthen the Commercial Law is that dealing with merchandise marks. It is based on the English legislation, which provides penalties for forging any trade mark or applying any false trade description to goods. A false trade description extends to the application to goods of any such figures, words or marks, or any arrangement or combination thereof, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are. It is made unlawful to import into Palestine goods of foreign manufacture bearing any name or trade mark which purports to be the name or trade mark of a manufacturer, dealer or trader in Palestine unless such name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced. There is a saving for a trade description which is generally and in good faith applied to any class or description of goods for the purpose of indicating that the goods are of a particular class or are manufactured by a particular method. The general purpose of the Ordinance is to ensure a proper standard of commercial morality in regard to the description and marking of goods sold, whether imported from foreign countries or made in Palestine.

Criminal Law and Procedure.—It is intended by the Government to introduce a complete new Penal Code in place of the Ottoman Code ; but pending the enactment of the larger measure, it is replacing those parts of the Criminal Law which in practice had been found unsatisfactory. The law with regard to perjury and other offences concerning the administration of justice is restated by an Ordinance (No. 15) based upon the provisions of English law. The law with regard to contempt of court which had been laid down in an ordinance of 1924 is replaced by a more complete Ordinance (No. 13). Another Ordinance (No. 43) defines the

offence of blasphemy as committed by any person who in public or in the hearing of another person utters any word or sound calculated or intended to outrage the religious feelings or belief of such other person. The Ottoman Code punished the offence of using infamous language publicly against the Great Prophets, but not the general offence of outraging religious feelings by words.

The legislation as to young offenders is amplified by provisions (No. 4) designed to keep minors out of the contaminating influence of prison. The age to which boys may be sentenced to detention in a reformatory is raised to 16; and the age up to which they may be detained in such a reformatory is raised to 18. It is further provided that boys may be confined in such an institution while awaiting trial on a serious charge. The reformatory institution of the Government has been removed from Jerusalem to the country, in order that the boys may be given a practical agricultural training.

An important Ordinance (No. 41) which was called for by the disturbances is the Criminal Law (Seditious Offences) Ordinance, which deals with offences against public order, including attacks on the authority of the Government, the constitution and existing social order, and with unlawful assemblies and riots. The Ordinance replaces a part of the Ottoman Penal Code and the Ottoman law concerning illegal assemblies, which were found to be unsuitable for the present circumstances of the country when put to the severe test. The Ordinance deals on the lines of English law with the offence of promoting civil war, inciting to mutiny, etc.; and, what was of great practical importance, with seditious conspiracy, seditious publication and possession of seditious documents. A "seditious intention" is defined as an intention to bring into hatred or contempt, or to excite disaffection against, the person of His Majesty or the Mandatory Power or the Government of Palestine as by law established, or the administration of justice, or to incite the inhabitants of Palestine to attempt to procure the alteration otherwise than by lawful means of any matter in Palestine as by law established or to arouse disaffection or discontent amongst the inhabitants of Palestine, or to promote feelings of ill-will and hostility between different classes and sections of the population in Palestine. It provides certain exceptions by which a person may establish an innocent intention where he points out in good faith errors or defects in the Government or legislation, or any matters which have been a tendency to produce ill-will and enmity between different classes of the population.

The law with regard to unlawful assembly is strengthened so as to give the Government the powers of dealing with any assembly of three or more persons who meet with intent to commit an offence or where the persons conduct themselves in such a manner as to cause others reasonably to fear that they will commit a breach of the peace.

Certain amendments are made in the Criminal Procedure by the Trial upon Information Amendment Ordinance. The Ordinance (No. 37) introduces a fresh system based on English practice, by which a warning must be given to any accused person in regard to his right of making or refusing to make any statement in committal proceedings before the magistrate. He must be told that he need not make any statement, but if he does it will be taken down and may be used as evidence against him. The Ordinance further extends the power of the Attorney-General of the Government to send back cases to a magistrate for further investigation if

he finds that the proceedings before the magistrate have not been satisfactorily conducted. The Attorney-General may also revise and replace any information (*i.e.* the statement of the charges made against the accused). The new law reduces the right of appeal in criminal cases from judgments of the district court and the Court of Criminal Assize, and further checks appeals by the introduction of the rule that a sentence of imprisonment shall be deemed to commence from the date of the original judgment, unless the court orders otherwise.

The Government in 1926 passed an Ordinance known as the Collective Punishments Law, which provides for the imposition of collective fines on areas which have taken part in disorder. This law was applied to the whole country after the disturbances of August, and an amendment (No. 32) of the legislation was introduced with a view to clearing up a doubt as to the power to impose a fine for disorders which occurred before an area was added to the list of places to which the legislation was applied.

Another Ordinance (No. 45) amending legislation passed previously by the Government to check lawlessness modifies the Prevention of Crime Ordinance, 1921, and extends the power of placing suspected persons under police supervision to persons suspected of seditious propaganda and activity. Previously the power of placing under police supervision applied only to persons who were of known criminal conduct. The amending Ordinance also makes it clear that no appeal shall lie to the courts from an order of a District Commissioner requiring a person to give security for good behaviour or to be placed under police supervision.

The courts trying charges of murder, rioting and other offences arising out of the disturbances have naturally to be composed of British judges on account of the inter-racial feeling which makes it undesirable for Arab and Jewish judges to sit in the cases. An Ordinance (No. 31) provides for the extraordinary composition of the courts trying these cases.

Civil Procedure.—The right of appeal from a Land Court to the Court of Appeal is restricted by a provision (No. 7) that no appeal shall lie save on a question of law.

The law with regard to mortgage, which is still laid down principally in an Ottoman enactment, is modified by an amendment (No. 9) which is designed to make it clear that a bank or a company can take a mortgage on immoveable property and that a mortgage may be given as a security for future debts, so as to cover advances made from time to time by a bank. Both these matters were in doubt in the Ottoman law.

An Ordinance (No. 16) was required to give effect to the agreement made between the Government of Palestine and the Government of Egypt for the reciprocal enforcement of judgments between the two countries. The agreement was ratified in January 1929, and enables civil judgments, including judgments of Religious Courts, given in the courts of the one country to be enforced by a simple procedure in the courts of the other country, subject to just exceptions where there has been excess of jurisdiction by the court giving the judgment.

Another Ordinance (No. 6) which is designed to give Palestine the benefit of an agreement with regard to civil jurisdiction provides for the recognition in the courts of Palestine of the probate of a will granted in Great Britain or in any British Dominion or British possession. The effect of the Ordinance is to avoid the need of obtaining separate confirmation of such a will in Palestine courts. And the probate already granted by the British court is accepted after simple registration.

Revenue.—The whole Ottoman law with regard to taxation and other revenue matters has to be replaced in view of the new circumstances of the country: during the year several notable measures dealing with Revenue were passed. The law and practice of the Customs Administration, which were in a confused state owing to the overlaying of the Ottoman Code by a number of detailed enactments of the Government of Palestine were completely restated. The Customs Ordinance (No. 11) is a comprehensive measure which cannot be summarized.

The law with regard to the collection of taxes, which had hitherto been regulated by the Ottoman rules, is completely restated. The Ordinance (No. 26) defines exactly the powers of district officers and district commissioners with regard to the attachment, seizure and sale of the property of a defaulter.

The legislation concerning the urban property tax, which had been introduced in 1928 to replace the Ottoman Werko law, and which imposed a tax based on the net annual value of a building or land in an urban area, is revised (No. 42), the experience of the assessment during the first year having shown the need of amplification.

The legislation concerning the cultivation and sale of tobacco is amended by two small amendments (Nos. 2 and 46).

The excise duty payable by manufacturers of matches is increased (No. 30), and certain minor amendments are made in the law with regard to the manufacture of intoxicating liquors.

The law as to stamp duties, prescribed in an Ordinance of 1927, is revised by an amending enactment (No. 24) which introduces a stamp duty on all sales and assignments of property carried out by a written instrument.

A small amendment (No. 21) is made in the Ottoman law with regard to the legal rate of interest which is still in force, so as to empower a bank, by agreement with a customer, to charge compound interest.

Lastly, the legislation of the Government with regard to pensions is amplified by a provision (No. 40) enabling the Government to give gratuities to women officers who retire from the public service on marriage.

Land.—A most important Ordinance (No. 27), which had been published in 1928, concerning the protection of agricultural tenants, was enacted during the year. It provides that a notice of at least one year must be given to any tenant of agricultural land who has been cultivating a holding for a period not less than two years, whether his tenancy is based on a written or oral agreement; and further, that the landlord shall not increase the rent of the holding unless he has given the tenant a notice of at least one year before the increased rent shall come into force. It provides also for payment of compensation to an agricultural tenant for a disturbance and for any improvements carried out on the land by the tenant, provided that notice of the improvements is given to the landlord. In addition, a tenant who has been in occupation of a holding for a period of at least five years is entitled to further compensation, amounting to one year's average annual rent. Any question whether compensation is due or as to the amount of compensation, which is in dispute between the tenant and the landlord, must be referred to a board composed of a district officer of the Government and two representatives of the landlords and tenants respectively. The landlord may evict the tenant without a year's notice where the tenant fails to pay the rent or uses the land wastefully; but it is again a question for the board to determine whether the

land has been used wastefully or whether there are sufficient reasons for the failure to pay the rent. The Ordinance is designed to give greater security of tenure to the fellaheen. Under the old law they were only protected from eviction in the case where the land was sold by their landlord while they were still tenants. An earlier Ordinance of the Government provided that in that case the transaction should not be registered until the Government had been satisfied that provision had been made for leaving to the tenants sufficient land for their maintenance. The provision had been found difficult to work, and the clause of the former Ordinance is repealed by the new legislation ; but recent events in Palestine have indicated that it may be advisable to reconsider the question of securing land for tenants as well as or instead of providing compensation when they are evicted by a landlord.

Another important Ordinance (No. 28), which was held over from the previous year, concerns the registration of land in connexion with land settlement, and provides for the registration of prescriptive title to land and a possessory title. The Ottoman Land Law, while making prescription an answer to a claim to land against a person who has been in possession for a period of ten or fifteen years, according as the land was Miri or Mulk, did not provide for the registration of title to land on the application of the person who had been in possession for the period of prescription. In order that the land settlement should give a true indication of the holding of land, it was necessary to correct this deficiency, and further to provide for the registration of possessory title in a case where the settlement officer is satisfied that the person has been in possession of the land registered in the name of another for a period less than the period of prescription and the registered owner cannot be traced or makes no claim to the land. The effect of such registration is that the person previously registered as owner can bring proceedings to recover the land within the period of prescription ; and if no action of the kind is brought, the Director of Lands, on being satisfied that the person registered with a possessory title or his heirs are in possession, shall vacate the registration of the registered owner and enter the person registered with the possessory title as the owner of the land. No disposition or transfer, save on death, by the person registered with a possessory title may be made while the registration of possessory title stands.

The same law also provides that, where a settlement officer is satisfied that a person is in possession of land under an unregistered transfer to himself or his predecessor in title made by a person who was in possession at the date of the disposition but was not registered as owner, and that no other person has a registered interest in the land, he shall enter the name of the person in possession as the owner.

The law with regard to land survey is amended and consolidated by an Ordinance (No. 48) which, on the one hand, regulates the licensing of surveyors and their functions and duties, and on the other hand provides for the survey of lands by the Government Department of Surveys. It gives powers for the entry of government officers engaged in survey of land and building, for the placing of survey marks and their protection, and for the authorization of compensation where survey operations cause damage to land or buildings.

Road Transport.—The legislation with regard to the control of road transport is amended and consolidated in an Ordinance (No. 23) which replaces the enactments of 1921 and subsequent years.

Police.—The law with regard to the police is amended (No. 49) by the addition of provisions concerning the payment of pensions and gratuities to members of the police force, and by the revision of the provisions with regard to the appointment and payment of village guards known as ghaffirs.

Antiquities.—The law with regard to antiquities, prescribed hitherto by an Ordinance of 1920 in accordance with certain principles in the draft Treaty of Peace with Turkey, is replaced by a measure (No. 51) that carries out more completely those principles which were finally laid down in the Mandate for Palestine. It is a fundamental principle that the law should proceed by encouragement rather than by threat. The law therefore provides that, where the Government acquires an antiquity discovered in Palestine, it shall pay the value thereof which, in case of dispute, is to be fixed by an arbitrator appointed by the Archæological Advisory Board. A licence to excavate is required before there can be any digging in antiquities, and is to be granted only to persons who are prepared to spend a sufficient sum of money to secure a satisfactory result on archæological grounds, and whose scientific competence is reasonably assured to the satisfaction of the Director of Antiquities; provided that no discrimination shall be made on the grounds of nationality or creed.

The rule with regard to the distribution of the results of the excavation as between the Government and the excavator prescribes that the Director of Antiquities shall acquire for the Palestine Museum any antiquities which are in his opinion indispensable for the scientific completeness of the museum or for the purpose of illustrating the history or art of Palestine. He shall then make a division of the remaining antiquities, aiming at giving the excavator a fair share of the results of the excavation. The Government may prohibit the exportation from Palestine of any antiquity the retention of which is considered to be necessary in the public interest; but this power cannot be applied to any antiquity used or devoted to religious purposes which is being exported by a religious body for such purpose. The Director is to draw up a schedule of historical monuments and historical sites, and no digging may take place at such site without a permission from the Government; and further, no excavation, building, quarry or similar work may be undertaken on or in the immediate neighbourhood of a historical monument or site without permission. Where a historical monument or site which is registered is private property, the Government may make arrangements with the owner for its preservation, inspection and maintenance, and may make a contribution from government funds towards the cost of carrying out any work of conservation which it deems necessary. Alternatively it may purchase or lease the site by private treaty, acquire it in accordance with the provisions of the Expropriation law, or remove the historical monument, making good any damage done to the site or to building thereon by such removal and paying compensation therefor. The owner of a historical site must permit any officer of the government Department of Antiquities to enter on the site to inspect and study the monuments and make drawings, etc., and to carry out any necessary work of maintenance or conservation.

Interpretation.—A law (No. 34), of which the need had long been felt in order to simplify the work of legislation, was passed during the year to lay down the rules of interpretation of certain terms and provisions which are commonly used in an Ordinance, and to prescribe rules as to the effect of repealing previous legislation. There has been frequent change in

Palestine of the titles of the principal officers of the Government ; and in consequence earlier legislation which refers to officers under the title which is now obsolete has on occasion been held to be inoperative. These defects are cleared away by articles of the law which set out expressly the substitution of the new title for the old.

Advocates.—The law with regard to advocates is amended by an Ordinance (No. 1) which defines more exactly the prohibition of advertising by an advocate. The new law provides also for regulations as to the forensic costume to be worn by advocates ; and a regulation has been made thereunder prescribing the wearing of an advocate's robe. The law raises the fees payable by advocates upon the grant of a licence to practise as well as the annual practising fees.

Midwives.—The profession of midwives is regulated by an Ordinance (No. 20), which lays down that no person may practise the calling without a permit from the Public Health Department. And a licence will be granted in the future only to a person who has studied in an institution for a period of at least 6 months and obtained a diploma. For the present, however, a restricted permit may be given to unqualified persons who have been practising midwifery in the country.

Legislation by Imperial Order in Council.—Two Orders in Council were issued during the year by His Majesty's Government affecting Palestine in accordance with the overriding legislative power which can be exercised by His Majesty in Council over the Territory under a Mandate. One of the Orders applies to Palestine the Rules of the International Convention with regard to Air Navigation as modified by English practice. The other applies to Palestine the English Colonial Probates Act by which wills confirmed in the Palestine courts can be accepted in British courts without need of further confirmation.

2. 'IRAQ.

[*Contributed by* H. I. Lloyd, Esq., O.B.E., M.C., M.A., *President of Court of First Instance, Baghdad.*]

During the year 1929 55 laws were passed, of which 35 were concerned with budget, finance and taxation. Twenty Nidhams (Regulations issued under authority of various laws by King and Cabinet) were issued. With the exception of those which are dealt with below, all these Regulations related to foreign judgments, taxation, agricultural loans and officials' allowances.

Pensions.—A Diwan Khas (Special High Court) was convened to interpret Arts. 1, 2 and 11 of the law of pensions deductions, to decide whether or not foreign officials and those not born in 'Iraq who are serving on local conditions of service come within the scope of the pension law in respect of services rendered by them to the British Civil Administration and Government of 'Iraq.

It was held that they did come within the scope of the pension law in respect of such services.

Awqaf Administration.—The law No. 27 defines the various classes of properties dedicated to religious or charitable or other uses.

The Minister of Awqaf is authorized to administer certain classes and supervise the administration of all others created for religious or charitable uses. With regard to waqfs created for the benefit of a family the duty

of the Minister is limited to securing their registration and preventing the conversion of the waqf into freehold property.

The Minister is authorized to levy fees on properties supervised by him, and all expenditure is to be governed by the annual budget law. Salaries are not to exceed 15 per cent. of the total receipts.

Waqf properties must be leased properly and a certain class of lease (*ujartain*) is forbidden. Provision is made for the sale or exchange of waqf property or lands provided a religious decree is obtained and Royal Iradah published.

Building and repairs to awqaf house property, places of worship, etc., are to be supervised by government officials.

Trustees of awqaf are bound to submit annual accounts to the Minister of all receipts and expenditure.

Officials of the Ministry of Awqaf are to be subject to the same conditions of service as state officials.

Corporations.—By the Law for the Registration of Immoveable Property in the name of Juristic Persons, No. 34, the following corporate bodies may own immoveable property and may exercise all rights of ownership: (1) 'Iraq State, municipalities, associations (registered by the Government but only to such an extent as required for places of assembly or to fulfil authorized objects of the association); (2) a company incorporated under the laws of 'Iraq may own immoveable property to the extent permitted by its articles of association; (3) a company incorporated abroad but registered in 'Iraq can with the consent of the Minister of Interior own immoveable property if permitted to do so by its articles of association, provided that the property is situated within the boundaries of a town or village or is required in pursuance of any concession or agreement made with the 'Iraq Government; (4) 'Iraqi communities with the exception of Moslem or non-Moslem waqfs.

Education.—No. 36 is a short law bringing all educational institutions under either the direct control or the supervision of the Ministry of Education.

Authority is given to issue regulations prescribing the syllabus of, administration of and conditions of admission to primary, secondary, high schools and training colleges.

Power is given to the Government to introduce compulsory education in any district when complete educational facilities exist. A fine not exceeding Rs. 20 for non-attendance is laid down.

Private schools must all obtain a licence from the Ministry of Education and must teach the Arabic language, geography and history and 'Iraq history according to the Ministry's syllabus.

Students of private schools can compete in all public examinations for primary, intermediate and secondary schools, and certificates granted by private schools shall not be recognized unless the student has passed the public examination.

Corporal punishment up to six strokes is permitted in primary schools.

Health.—Law No. 6 authorizes the Council of Ministers to issue regulations on twenty-nine subjects appertaining to health. These twenty-nine subjects cover practically every activity of men and animals.

The penalty for contravening any regulation when issued is laid down as a fine not exceeding Rs. 300 and imprisonment not exceeding three months.

In the absence of up-to-date legislation in 'Iraq the only feasible

method of bringing 'Iraq health legislation into line with modern Europe and the League of Nations requirements was by authorizing the Government to issue regulations. The only safeguard of the rights of the public contained in the law is a provision that the regulation must be published in the local newspapers one month before coming into force.

Industry.—Law No. 14 for the encouragement of industrial undertakings exempts new *bona fide* factories using machinery from income-tax and property-tax for a period of years, from import duties on machinery tools and apparatus required and from export duty on articles manufactured at the factory.

Interior.—Ministry of Interior Regulations were issued at the end of 1929 immediately after the declaration of Great Britain that she was prepared to recommend 'Iraq unconditionally for admission to the League of Nations. The object of the regulations was twofold, to lay down the duties of all officials of the Ministry and their relation to one another and, above all, to make clear that the executive authority was always vested in and only exercisable by 'Iraqi officials and that the British advisers and inspectors could issue no orders.

Execution of Foreign Judgments.—By Regulations issued during 1929, judgments of the courts of the following countries are recognized under the law for the Execution of Foreign Judgments in 'Iraq: Syria and Lebanon; the Dominions, Colonies and Protectorates of Great Britain which observe a procedure similar in effect to that provided by English law for the execution of foreign judgments; Egypt (both native and mixed tribunals), Palestine and Italy.

Conventions.—'Iraq also adhered to the following International Conventions: (1) International Postal Convention signed at Stockholm, August 24, 1924; (2) Freedom of Transit Convention signed at Barcelona in 1921.

Nationality.—Regulation No. 2 amends the Regulation putting into force the Judicial Agreement of 1925 between Great Britain and the 'Iraq Government, by adding to Art. 2 the following proviso:

> Provided that a person who possesses foreign nationality and also possesses 'Iraq nationality or is by any provision of 'Iraq law regarded as of 'Iraq nationality while residing in 'Iraq shall not be deemed to be a foreigner for the purpose of this Regulation.

Extradition.—The Convention between Syria and Lebanon and 'Iraq follows the usual lines, but declares the following are not political offences: (*a*) acts of violence, brigandage or robbery committed either by an individual or a band against individuals or local authorities or railways or any means of communications and transport; (*b*) attempts against the High Commissioner of the two countries or against the person of the heads of the respective Governments or against the person of any member of their families.

Justice.—Conflicts of Jurisdiction between Courts of Law (No. 8) deals with the following conflicts: (1) if two courts pass a decision to the effect that the suit is identical as regards the plaintiff, defendant and subject-matter and within their jurisdiction; (2) if two courts under similar circumstances decide that the subject-matter is outside their jurisdiction; (3) if a suit is brought in a civil court and it is claimed it should be brought in a religious court or *vice versa*; (4) if a suit is brought in a religious court and it is claimed that it should be instituted in a religious court of another religion or sect; (5) if two courts of different jurisdiction give judgment

in a suit identical as regards parties and subject-matter; (6) if a court gives judgment in a suit and another court of different jurisdiction takes cognizance of a suit identical to the first suit as regards parties and subject-matter.

In such a dispute between Peace Court and a Court of First Instance, the Court of Cassation shall determine the matter.

If the dispute is between a civil court and a religious court or between two religious courts of different religions or sects, the dispute shall be determined by a special committee appointed for each case. This committee shall be presided over by the President of the Court of Cassation and shall consist of a member of the Court of Cassation, a member of the Bench of Revision for the sect concerned and a member of the Spiritual Communal Council.

This committee can fix the proper court to hear the suit, cancel any or both judgments given and confirm any judgment given.

Judges and Qadhis.—No. 31 sets out conditions governing the appointment, promotion and discipline of judges and qadhis. (It does not apply to British judges employed under Art. 11 of the Judicial Agreement made under Art. 9 of the Anglo-'Iraq Treaty, 1922.)

They must be 'Iraqi nationals, over 25 years of age, with a good knowledge of Arabic, of good character and reputation, who graduated from the Constantinople Law College before 1921 or from the 'Iraq Law College since that date, who have practised for two years as an advocate or hold important posts in the courts or in other government departments, provided that such person has worked in one of the courts for at least one year.

Graduates from foreign schools of law will be deemed graduates of the 'Iraq Law School if they pass a prescribed examination in 'Iraq law.

Qadhis must have the same qualifications as judges, except that instead of a law school graduation, service as a qadhi for two years can be a qualification for appointment.

For promotion, transfer and disciplinary matters, a committee is set up consisting of the President of the Court of Cassation and two members: an official of the Ministry of Justice or a judge appointed by the Minister and one of the judges of the Court of Cassation or one of the presidents of the Shara' Courts of Revision according as the case is one affecting a civil judge or sunni or shia qadhi.

As a disciplinary body the committee inquires into charges of professional misconduct or other circumstances prejudicial to the position of a judge, and has power to inflict the following punishments in reprimand, postponement of promotion, reduction in grade, dismissal. The Minister must confirm all decisions, and all cases of dismissal must go to the Council of Ministers.

The law also deals with the trial of judges for offences (1) arising out of their official duties, when a High Court has to be convened under the Constitutional law, and (2) offences triable by the criminal courts.[1]

Land Settlement.—Law No. 23 sets up a commission consisting of a president and four members (the president and two judges to be selected by the Ministry of Justice, one member selected by the Ministry of Interior

[1] The law is at present deficient in the means of getting rid of a judge who is merely incompetent, and, as the law in its present form has had the effect of giving too secure a tenure of office to certain judges who should properly have been removed before the law came into force, amendment is necessary.

and one member selected by the Ministry of Finance), to inquire into the title and boundaries of lands under dispute in the Muntafiq Liwa.

If no title is proved, the land is to be registered in the name of the Government.

If a title is proved, the commission shall decide: (*a*) boundaries, (*b*) occupancy, (*c*) in whose name the land shall be registered.

To prove boundaries no regard shall be taken of boundaries contained in the documents of title if it was clear that a definite measured area of land was granted.

If the commission decide that an owner of land according to valid documents has not exercised his rights of ownership over that land, the Ministry of Interior may order the expropriation of that land or a portion of it within sixty days of the commission's decision.

On receipt of such an order the commission shall assess the value of the land, which shall be twelve years' purchase of the average annual income received by the owner between 1900 and 1915.

The passing of the Muntafiq Land Settlement Law necessitated the repeal of G.O.C.'s Proclamation No. 34 of 1918, which was repealed by Law No. 26.

In 1918 the G.O.C. issued a Proclamation authorizing political officers to forbid all transactions in miri lands by way of Tapu registration. No sale or lease of land could be lawful without the consent of the political officer if the political officer had declared an area within his jurisdiction to be brought under the Proclamation. The Proclamation made provision for the hearing of cases by the political officer and for dealing with the land and the revenues thereof pending the appointment of a Land Settlement Commission.

The reasons for this were fully set out in the preamble of the Proclamation: (1) The grant by the Turkish Government of title deeds under the land code for the right of possession over large tracts of government land (miri) without due regard for previous titles and without sufficient examination of the rights of tribal and other possessors of the soil. (2) The existence of a large number of fraudulent deeds. (3) The failure of many owners of deeds to cultivate their lands or exercise any of the rights of ownership over them. (4) Some of such lands are in the occupation of tribesmen who have been in occupation for many years and who have constantly disputed the claims of the holders of the title deeds of such lands. (5) The absence of all maps and other topographical information as to the extent and area of such lands has led to great confusion in respect of rights and boundaries. (6) The danger of such confusion of existing claims affecting the public peace and safety of the Army of Occupation.

This proclamation has been in effect a dead letter for some years in all parts of 'Iraq except the Muntafiq. But it had been a great instrument for the settlement of tribal disputes when used sensibly by political officers and their successors the 'Iraq Mutassarrifs. The commission set up under the Muntafiq Land Settlement Disputes Law is the first 'Iraqi attempt to solve the vexed question of title to land.

The commission is not bound by the Civil Procedure Code, and as to proof of facts it can satisfy itself by any means which appear to be adequate as long as they are not unlawful.

Shara' Procedure Regulations.—Law No. 5 enacts that "Any party in a case concerning Raqaba of Waqf (freehold of dedicated lands) may de-

mand that the case be transferred to the civil courts, and in that case the Qadhi shall order the transfer of the case in accordance with the request."

This is a most important limitation of the jurisdiction of the religious courts and marks the general tendency to bring all possible cases under the control of the civil courts.

Land Revenue.—Law No. 40 prescribes the method of assessment of land-tax and rent due to Government. It repeals the old Turkish Nidham al Ashar and all subsequent laws and regulations.

Land-tax, rent, government share (tithe) and taxpayer are defined.

Land-tax is leviable on all agricultural and natural produce with the exception of certain produce which is specified by name in the law and which has either not been taxed *ab antiquo* or not normally bought and sold or which is used by the agriculturists for their own purposes.

The law lays down that the " normal method of assessment of land-tax and rent shall be by the assignment of a fixed assessment in cash regarded as equivalent to the value of the government share of the produce at the place of origin."

Such period of assessment shall remain in force for not less than three or more than five years.

This method is to be applied when areas have been surveyed and mapped and the lands classified according to the fertility of the land, irrigation facilities, distances from markets, etc. The law lays down that the survey must be by properly qualified surveyors and the classification of lands by local committees and the fixed assessment by the Ministry of Finance according to resolutions of the administrative councils of each province.

The law lays down alternative methods of assessment which are permitted if fixed assessment is impossible ; these are eye estimation of the produce at the place of origin, count, measurement of the area, fixed assessment per plough, assessment of the produce at the place of consumption, fixed assessment based on the average of previous years and public farm of taxes.

Rights of appeal and reassessment are provided for. A Land Tax Board is enacted as the final authority under the law. This board is to be formed at the beginning of each year and to be composed of a senior official of the Ministry of Finance as president and two other members, one appointed by the Minister of Interior and one by the Minister of Justice.

Postal.—The surcharges on all letters despatched by the " Overland " (cross desert) route are abolished by law No. 12.

Public Grant.—Parliament voted a special grant of Rs. 50,000 and a pension of Rs. 1,200 per month to the family of the late Abdul Muhsin Beg As Sa'dun, Prime Minister, who committed suicide in November, 1929, and who, having sacrificed all his private interests to serve the State, died in comparative poverty.

Road Traffic.—Early in 1929 the rule of the road was changed by law, all means of transport being ordered " to keep to the right side of the road except when passing other means of transport going in the same direction which must be passed on the left side."

State Officials' Discipline.—No. 41 lays down the duties of officials and sets up disciplinary boards. Officials must not divulge state matters ; an official is forbidden to engage in commerce, agriculture, industry or a profession, to tender for government contracts, etc., to appoint near rela-

tives to any government appointment in his gift and to participate in politics either by joining political parties' clubs or by writing political articles to papers.

Disciplinary boards of three members are to be set up in each Ministry at the beginning of each year.

These boards can award the following punishments, reduction of pay, reduction of grade, dismissal. An appeal lies from their decisions to a General Council composed of five heads of departments to be appointed each year by the Council of Ministers.

An official charged before a disciplinary board with an offence arising out of his official duties is given full opportunities of making his defence, questioning prosecution witnesses and being legally represented.

Disciplinary action against heads of departments or governors of provinces can only be taken by the General Council.

If the General Council orders the dismissal of such an official the award must be submitted to the Council of Ministers, who have the right to refer the papers back to the General Council for reconsideration, but the second decision of the General Council is final.

No official shall be prosecuted before a criminal court in respect of any offence arising out of his official duties until a disciplinary board or the General Council so orders.

An official acquitted by a criminal court is not thereby immune from disciplinary action under this law. An official sentenced to imprisonment by a criminal court automatically forfeits his appointment.[1]

Transit Trade.—Law No. 13 fixes transit duty at ½ per cent. *ad valorem* irrespective of the length of time goods remain in 'Iraq provided that goods are placed in bond if not exported within six months of arrival in 'Iraq.

FOREIGN.

1. FRANCE.

[*Contributed by* O. E. Bodington, Esq.]

Companies.—The law of January 23 regulates the issue of founders' shares by commercial companies and purports to remove the uncertainty which had hitherto prevailed in regard to the status of these securities.

Social Insurance.—The law of March 30 is a decree regulating the operation of the law on social insurances. This is simply mentioned. It would be quite out of place to endeavour to analyse a department of legislation which is so confused and the outcome of which no one can at present foresee, although the opinion is gradually forming, both in official and unofficial circles, that the law has not achieved its object.

Landlord and Tenant.—An acute controversy is in progress as regards the rights of foreigners under the law of June 29. Art. 4 provides that foreigners who have not fought or served, or whose children or sons-in-law have not fought or served in the French or Allied or associated armies, are not entitled to the privileges of the law " under reserve of diplomatic conventions existing upon the date of the promulgation of the present

[1] While some law for the protection of officials from the risk of arbitrary dismissal was very necessary, the effect has been to give absolute security of tenure to a number of inefficient officials who should have been got rid of before the law was passed. To remove them another law will be necessary.

law." Great Britain enjoys most favoured nation clause in regard to this, but the courts have shown a disposition to ignore the treaty and furthermore to ignore the fact that the English Landlord and Tenant Act of 1927 grants reciprocal rights to foreign tenants in England. The provisions of the Treaty were pointed out to M. Briand, Minister of Foreign Affairs, by the British Ambassador in a letter of May 21, 1929; a letter to which M. Briand replied agreeing with the Ambassador's interpretation of the Treaty and also of the Landlord and Tenant Act. As a result of this correspondence a circular was issued by the Minister of Foreign Affairs on July 22, 1929, addressed to the Minister of Justice, pointing out the provisions of the Treaty and requesting the Minister of Justice to communicate this interpretation of the Treaty to the Procurators-General of the Court of Cassation, the Procurators-General of the Courts of Appeal, the Procurators of the Republic and the Justices of the Peace. In spite of this circular, the courts have not exhibited uniform willingness to apply the Treaty, and in particular, with regard to the right of resumption of occupation by the landlord, have availed themselves of further legislative provisions since the issue of this circular to refuse this particular right to a tenant of British nationality. Further representations are being made, and it is hoped that this will result favourably, but it is evident that the courts incline to take a very chauvinistic view.

Identity Cards.—A slight concession is made by decree of July 10, in regard to foreigners coming to France, in that they have eight days instead of two days in which to make application for their identity cards.

Foreign Securities.—An important concession is made by the law of July 31, which provides that foreign securities may now be quoted, negotiated, placed on sale or subscription or issued or introduced on to the French market without going through the somewhat complex formalities of what is known as the "régime d'abonnement" or composition for stamp duty. The same law also reduces the duty on sales of real estate from 15 per cent. to 12 per cent.

Financial Year.—By the law of December 27, the government financial year is changed. It formerly ran from January 1 to December 31. Now under this law it begins on April 1 and ends on March 31.

2. UNITED STATES OF AMERICA.

FEDERAL LEGISLATION.[1]

Aviation.—Public No. 846 amends the Air Commerce Act of 1926 by authorizing the Secretary of Commerce to provide for the examination and rating of civilian schools giving instruction in flying.

Drugless Practitioners.—Legislation in force for many years in the District of Columbia, regulating the practice of medicine and surgery, was found inadequate for the licensing and regulation of persons practising so-called drugless methods of preventing and curing human ills, and midwives. To remedy this situation, Congress enacted Public 831, which bears the short title of the "Healing Arts Practice Act, District of Columbia, 1928." The Act defines "the healing art" and creates "a commission on licensure to practise the healing art in the District of Columbia," with numerous powers and duties, including power to establish minimum standards of pre-professional and professional education in the healing art.

[1] Extracts from the *American Bar Association Journal*, vol. xv, p. 702.

Officials of the United States Government are exempted from the provisions of the Act, but such officials must prove their right to such exemption.

It is provided that the Act shall not apply to dentistry, pediatry, optometry, pharmacy or nursing, to the treatment of any case of actual emergency, to the practice of massage or dietetics, to the use of hygienic measures, to the practice of any other form of physiotherapy for the relief of disease, to the practice of X-ray or laboratory technicians or to the treatment of human ailments by prayer or spiritual means as an exercise or enjoyment of religious freedom.

STATE LEGISLATION.[1]

1928.

Convict-made Goods.—The federal organization of the country, with its division of legislative powers between Congress and the State Legislatures and the further consequence of the legislative independence of each State within its own jurisdiction, causes difficulties which the Congress and the States are frequently called upon to smooth out, subject to the approval of the court. In performing this function Congress is not always mindful of the historic duty of a governmental organ, the increase of its own jurisdiction, but sometimes shows a spirit of self-denial in extending the powers of the States. This it has done in 1928 by passing the Hawes-Cooper Act, Public 669, to permit the States to control the entry of convict-made goods into their territories. The new law divests of their inter-state character articles made in prisons or produced by prison labour, thus extending again the principle first introduced into constitutional practice to prevent interference with State prohibition laws through the original package doctrine.

Death Taxes.—The most noteworthy of the efforts to reduce friction in the community arising from the independent legislative jurisdiction of the States is the legislative device steadily making headway to prevent the injustice arising from the exclusive power of taxation possessed by the different States, notably in the case of death taxes. As a result of exclusive State power securities of corporations of one State, owned by persons who die residents of other States, may be taxed in both jurisdictions, so that there is in fact double taxation of the estate. The legislatures have been devising ways of meeting this difficulty, notably by adopting reciprocity laws under which a State will not impose a death or inheritance transfer tax on the securities of its corporations owned by estates of persons who die subject to the jurisdiction of States which grant reciprocity. The principle not only avoids double taxation to the estates of decedents, but it also encourages investment in the securities of corporations of reciprocal States, because the persons buying the securities will realize that they do not have to fear imposition of a death transfer tax on their holdings.

Uniformity of Legislation.—Uniformity in State legislation is being accomplished not alone through the important work of the Commissioners on Uniform State Laws, but by the approval, by groups interested, of standard Acts which are then pushed in the State legislatures. Among these standard Acts two examples of very different types have been

[1] Abridged from the Report of the Committee on Noteworthy Changes in Statute Law from the *Reports of the American Bar Association*, vols. liv and lv.

selected as illustrating the tendency. One is the Small Loans Act, becoming rapidly the common statutory law of the country in respect to small loans, and the other is the legislation regulating collection of negotiable instruments. In preparing the Small Loans Act " the student of the small loan field has met the practical man of affairs in the small loan business, and together they have devised a law to fit the situation. The Act so drafted has been found good by the legislatures and approved by the courts."

Complications arising out of conflicting legislation and decisions of the courts have led to the drafting and enactment of the Uniform Direct to Payor Act to regulate the collection of negotiable instruments. The Act was originally proposed by the American Bankers Association and has been very widely approved on the ground of public policy in legislative committees, and on the floors of the Senate and Assembly Chambers of the State capitals. The statute permits the sending of a negotiable instrument " drawn upon or payable at any other bank located in another city or town and whether within or without the State " directly to the bank on which it is drawn, or at which it is made payable, and expressly exempts the forwarding bank in such case from loss resulting from the insolvency or other default of the payor bank.

Criminal Law.—In the field of criminal law the most notable tendency in legislation is the continued confidence, sometimes in a milder form, of the statutes punishing more severely recidivists and notably taking from the judges any power of discrimination in respect to fourth offenders, and the interesting tendency to increase the *prima facie* presumption of guilt against the defendant, with the result that it is made increasingly difficult for him not to take the stand in his own defence. Another problem of evidence, the proof of insanity in criminal cases, has received an interesting solution at the recent session of the Louisiana legislature (Act No. 17). A commission consisting of the superintendents of the State hospitals for the insane and of the colony for the feeble-minded is set up, to which are referred before a trial prisoners whose sanity is questioned. The prisoner is to be held for investigation during not over forty days in the criminal department of the insane, and a report in writing is made to the judge which is final. The commission reports not only on the sanity of the person at the time of trial, but also on his sanity at the time of the commission of the act, and if they find him insane at that time, but presently sane, he will be entitled to discharge on the filing of the report. The Act permits any member of the commission to designate a competent physician to act in his place. Thus a technical commission is set up to determine the fact of sanity instead of leaving the problem to the jury after they have heard the usually conflicting testimony of learned alienists. This attempt to vest in an expert commission instead of a jury or judge the decision of the fact of sanity was promptly held to infringe the provisions of the constitution making the courts " the exclusive arbitrators of all criminal cases." [1]

Louisiana codified her statutes on Criminal Procedure. The rules of evidence and procedure, laid down in the new code, are worthy of note.

1929.

Intestate Taxation.—The legislatures and the courts during the past few years have been forced to face the question of multiple taxation of the

[1] *State of Louisiana* v. *William Lange*, June 17, 1929.

personal property found in decedents' estates. The State of domicile, the State of the place where the property happened to be at the time of death, the domicile of the debtor as well as that of the creditor State, and the domicile of the corporation whose stock was owned by the estate, all took toll of the property as a condition to allowing its transfer in case of death. In *Frick* v. *Pennsylvania* [1] the Supreme Court took a decisive hand in the game and decided that the old rule *mobilia sequuntum personam*, under which the State of domicile of the decedent claimed the right to tax personal property, both tangible and intangible, wherever situated, should no longer be applied to tangible personal property, thus establishing finally all double taxation on transfers of this kind of property. Tangible personal property was thus assimilated to real estate and disappeared from the complex of rights to tax with which the law declaring and law applying bodies were struggling. The more important element of intangibles remained, and the legislatures of the States have been endeavouring to deal with them in various ways, notably through an attempt to secure reciprocal legislation under which one State declares in its statute that it will not tax the intangible personal property of residents of other States who accord a like favour to its residents. Statutes of this type have spread very rapidly over the country, but have not been accepted by all the States, and as they are not always uniform, there is a constant possibility of difficulty in respect to the exact persons or property entitled to exemption as between any two States. Furthermore, a few States impose no death taxes, they clearly cannot give reciprocity, since they treat alike the inhabitants of all States, no matter how their own people may be treated in a particular jurisdiction; so there is a difference of opinion as to whether their people should benefit by the exemption. The federal estate tax, by allowing a credit on the federal tax up to 80 per cent. of that tax of the amount paid as death transfer tax in a State, encourages the levying of an inheritance tax of some sort, since if an individual does not pay a State tax he is compelled to make up for it, in part at least, by the federal impost.

Deserving general attention is the New York Act, c. 229, adapting the antiquated law of estates in that jurisdiction to modern conditions. The bill was drawn by a commission of probate judges and lawyers. It recognizes the importance of corporation securities in estates and goes far in assimilating real and personal property in decedents' estate law, and secures a share of the whole estate to the surviving spouse, husband and wife being equally treated.

Unemployment Relief.—The first fruits of the agitation for long distance planning by public authorities as a means of mitigating unemployment was taken by Utah (279 U.S. 716). As recommended by the Governor, the Bill set forth a tentative programme for a twenty-year period and authorized the expenditure of a large sum of money, with due consideration of the needs of the State and for providing work for periods of unemployment. As passed, the building plan covers only two years. The Act, however, sets up an unpaid commission of five citizens to be appointed for four-year overlapping terms, empowered to appoint its own staff, headed by a secretary and superintendent of construction. The commission may make plans and contracts, acquire property and supervise what is to be done. Most noteworthy is the method of financing its operations; a bond issue is authorized to be sold in amounts and at times

[1] 268 U.S. 473.

requested by the commission, so that money is not impounded in the treasury from tax revenue, nor are bonds sold till the money is actually needed for use, but the commission is provided with funds as it needs them.

State Administration.—The reorganization of the Pennsylvania State government gathers a number of scattered executive offices, boards and commissions into nineteen single-headed departments and three departments under independent commissions (Act 175). The Governor and Senate appoint such heads of departments, as are not elective officers, and the members of the independent commissions, for terms of four years co-terminous with the tenure of office of the Governor. Two of the officers, the Attorney-General and Secretary of the Commonwealth, serve during the pleasure of the Governor and may be discharged by him without giving reasons. The Attorney-General is thus made directly dependent on the head of the State and becomes his law adviser, thus holding a very different rôle from that he plays where he is a constitutional officer elected by the people and may be looked upon as one of the checks on the excessive zeal of the administration in the interest of strict construction of the constitution and the rights of citizens. The dependence of the Attorney-General on the Governor is not an innovation. In view, however, of the tendency towards reorganization of State governments, of which the Pennsylvania statute is the outstanding evidence this year, it seems important to call attention to the status of the State's chief law officer in relation to the Governor. An interesting device is the Governor's cabinet. He may choose any six department heads of the nineteen to form his cabinet, which has the important duty of general control over the bureaux in the departments, and also that of fixing the standard compensation for officials and employees of the State.

Criminal Law.—The course of criminal legislation in 1929 makes it evident that the tendency towards strict punishment for recidivists, especially fourth offenders, still persists. The session laws, however, evidence the belief that some classification is necessary to temper the severity of the original laws, instead of the broad condemnation of all third and fourth offenders to long term or even life imprisonment. Ohio, s. 13744–1, Colerado, c. 85, and Pennsylvania, Act 373, make their recidivist laws establishing very severe penalties for second and subsequent offences apply only to specified felonies which are in the main crimes of violence, arson or forgery. Another tendency in the latest legislation is not to impose a legislative sentence of life imprisonment for a fourth offender, but in its place to increase the maximum penalty, and sometimes minimum, but to leave the judge a wide discretion to appreciate the importance to society of meting out the extreme penalty in each individual case. Both Pennsylvania and Michigan, No. 24, adopt this mitigation, though the Ohio and Colorado legislatures still maintain that for a fourth offence for the specified felonies the person convicted must receive a life term. Michigan has gone farthest, as its amendment modifies the punishment of a fourth offender by measuring it in part by the gravity of the particular offence for which he is on trial.

The general tendency of maximum terms of imprisonment is upwards, especially in case of robbery and other crimes of violence, and the description of the crimes of violence for which an increased penalty is edicted will permit the historian of the future to become eloquent over the dangers of living and owning property in twentieth-century America. Long

prison terms for burglary or robbery, even running up to life in Ohio and New Mexico, p. 502, if committed while armed with a deadly weapon, are no longer sufficient; special punishment for the use of bombs, machine-guns and armoured cars are illustrative of the enterprise of the organized gangs who form so important an element in American crime. From attempts to persuade a criminal not to use modern adjuncts of his profession by a threat of a much more drastic penalty than would be his if he walks unarmed, the legislatures of three states, Pennsylvania, c. 329, Nebraska, c. 190, and Missouri, p. 170, have taken the next step of punishing severely the sale or possession of machine-guns, except in the case of officers of the law. Evidently the legislatures believe that these weapons will only be used by private persons for the purpose of aggressive warfare against society and can only be considered defensive when in the hands of official protectors of society. Indiana, c. 203, makes it a felony to manufacture, sell or use an armoured motor-car, except in the case of peace officers, banks, common carriers, soldiers and the mail services of the United States. The use in an ancient crime of new methods appears in Nebraska, c. 74, which especially classifies, as a special crime, burglary in which electricity or gas is the means employed for forcing walls or strong boxes. Use of another modern invention for evil-doing of a different sort is punished by North Dakota, c. 117, which imposes a fine of not over $100 on any person who shall falsely utter words "over, through or by means of what is commonly known as radio, which in their common acceptance shall tend to blacken the memory of one who is dead or impeach the integrity or virtue or publish the natural defects of one who is alive and thereby expose such person to public hatred or ridicule or financial injury." The truth, however, is a "safe defence in all prosecutions for slander" under the Act.

In the field of criminal procedure perhaps the most noteworthy provision is that made in s. 13444–3 of the Ohio laws contained in a general revision of the Code of Criminal Procedure. Hereafter the failure of a person charged with an offence to testify "may be considered by the court and jury and may be made the subject of comment by counsel," thus putting the statute in harmony with the constitution.[1] Another section of the Code, s. 13442–4, allows the defendant in a criminal case to waive a jury trial. Massachusetts, c. 185, also permits the defendant in the superior courts, in criminal cases involving other than capital punishment, to elect a trial by court instead of by jury.

There is the usual grist of statutes adopting the device of *prima facie* or presumptive evidence, chiefly for the purpose of putting a burden of obliging the accused person to offer evidence. A different use of legal presumption, however, is made in Minnesota, c. 289, which declares presumably fraudulent for the purposes of a trial any statement secured from an injured person within thirty days after the injury was sustained.

[1] Ohio Constitution, Art. 1, s. 10, as amended September 3, 1912.

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